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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 8, 2005, at 2 p.m.

Senate

THURSDAY, FEBRUARY 3, 2005

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. John Holt of the Rhode Island State Council of Churches in Providence, RI.

PRAYER

The guest Chaplain offered the following prayer:

O God, on this day of prayer, we ask: Who will find their way home to You?

If we listen, O God, You tell us: The ones who seek to do right, the ones who speak heart-felt truth, the ones whose tongues know not slander, the ones who inflict no evil upon friends, will find their way home to You.

O God, on this day of prayer, we wonder: Who will be lifted up to Your holy heavens?

If we listen, O God, You tell us: The ones who walk with integrity, the ones who love their neighbor, the ones who hold fast to their word, the ones who embrace the innocent, will be lifted up on high.

O God, on this day of prayer: we hope: That those who serve in the Senate, that those who live in our land, that those who are our friends, and those who are our enemies, will seek to live within Your will.

For we know, O God, that those who live as You desire, shall abide in Your presence. They shall not be moved, not now, not ever. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the hour that I have be given to the Senator from Maryland for distribution in morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask the Chair how much time is remaining on both sides for the Gonzales nomination?

The PRESIDENT pro tempore. There are 8 hours remaining on the nomination.

Mr. REID. Is it equally divided?

The PRESIDENT pro tempore. The Chair's understanding is that it is equally divided all the way through the day.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there shall be a period for the transaction of morning business for 2 hours, with the first hour under the control of the Democratic leader or his designee and the second hour under the control of the majority leader or his designee.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I yield 1 minute to the Senator from Rhode Island. I understand the Chaplain is a constituent of his.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized.

WELCOME TO GUEST CHAPLAIN JOHN HOLT

Mr. REED. Mr. President, I rise to recognize my friend John Holt, who is one of the great leaders of our faith community in Rhode Island. In many dimensions, his efforts have made our State a much better place, more decent, more noble, and more caring. He is somebody who recognizes that faith is not just words but it is actions, and each day he tries to put those faithful actions into the lives of the people of Rhode Island. With great pride, it is a pleasure and a real privilege to recognize today his serving as the Chaplain of the Senate.

The PRESIDENT pro tempore. The Senator from Maryland is recognized.

SOCIAL SECURITY

Ms. MIKULSKI. Mr. President, as the senior Democratic woman of the Senate, I rise to tell my colleagues today that we, the Democratic women of the Senate, want to take the floor together and unanimously stand up for Social

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Security. We want to stand up for American families, stand up for American children, and stand up against the dismemberment of Social Security. This morning my colleagues will see all of us taking the floor to speak with passion, to speak with fortitude, to say that no matter what happens in the legislative days ahead, the outcome will be that Social Security will always be a guaranteed benefit and not a guaranteed gamble.

When one gets old and they are sick, there are not many things they can count on but they should be able to count on Social Security. Our seniors' retirement should never rely on the bull of political promises or the bear of the market.

We women are at risk, and that is why we want a guaranteed benefit, not a guaranteed gamble. We, the women, know the odds. We know that Social Security cannot be slot machine Social Security, that when one pulls the lever they get a lemon instead of three gold bars.

All of our lives we have been placed in the penalty box just because of who we are. We earn less money than men, and we often work at jobs less likely to have a pension. We are in and out of the marketplace because of family responsibilities. We live longer, and the consequences are when we retire we get less. Social Security is a great equalizer and we want to be out of the penalty box and be in a guaranteed benefit box.

Right now, even in the debate we are already getting ready to face discrimination. Chairman THOMAS of the Ways and Means Committee said because women live longer, maybe our benefits should be reduced. That is outrageous. I thought we were all created equal under the Constitution, and we should all be treated equal under Social Security.

I am taking a position, along with my women Democratic colleagues, that we will not support a plan that does not provide a guaranteed, inflation-proof, lifelong benefit.

We, the Democratic women of the Senate, have certain criteria as this debate goes forward: Preserve Social Security's guaranteed lifetime inflation benefit; preserve Social Security for workers when they are disabled and for workers' spouses and children when they are disabled; and protect against the impoverishment of women by maintaining Social Security's benefit structure. Social Security provides a minimum floor against dire circumstances and that is part of the social insurance.

When we talk about a guaranteed benefit, not a guaranteed gamble, it is very clear why. Today we know our benefits are benefits we can count on. We do not have to worry about whether the stock market doing well. We do not have to worry about did we make investments, do we know bonds and stocks and indexes? What we do know is this is the guaranteed benefit. All other private savings, private pensions, are built around it. Social Security is the anchor tenet. Let us not eliminate it.

When we talk about why we need a lifetime benefit, I am concerned about the gimmicks and proposals that are being made now that people could outlive their savings. The great thing about Social Security is one cannot outlive Social Security. It is theirs until the day they die. One can outlive their IRA or their savings, but they can never outlive Social Security. This is an important anchor, particularly because we women live longer.

The plan must be inflation proof. Today, Social Security does not penalize for living longer. We women live longer and we need an adequate cost-of-living increase. When one retires in 2030, they cannot have an income that has been pegged at 1990. That is why it has to be inflation proof.

So we, the democratic women of the Senate, will not support any reform that takes us backward, instead of forward. We will use a checklist we developed to ensure that bad things do not happen to women and families in the name of improvements to Social Security. To have our support, any changes to Social Security must be able to answer these questions:

Does the plan preserve Social Security's guaranteed, lifetime, inflation-protected benefits?

Does the plan preserve Social Security's protections for workers when they are disabled, as well as when they retire, and for workers' spouses and children when workers are disabled, retire, or die?

Does the plan protect against impoverishment of women by maintaining Social Security's progressive benefit structure?

Does the plan strengthen the financing of the Social Security system while ensuring that women and other economically disadvantaged groups are protected to the greatest degree possible?

These principles are the promises of Social Security we will fight to protect. We must keep the ''security'' in Social Security. It must be a guaranteed benefit, not a guaranteed gamble.

Now let me talk about why these principles are so important and why privatization will specifically hurt women. This checklist is important because Social Security is the primary, or only, income for retired women, disabled workers and their families, working families in retirement who usually do not have access to a pension or other retirement and spouses of retired workers.

First, we need to preserve Social Security's, guaranteed, lifetime, inflation-proof benefits. The plan must be a guarantee. Today you know what your benefits are. You know what you can count on. It is guaranteed. We do not have to worry if the stock market is doing well. We do not have to worry if we invested wisely. We do not have to worry if our husbands planned well. We do not have to worry if we suddenly become disabled that we will also suddenly be poor. The benefit is there for us. It must be a guarantee. The plan must last for our whole lifetime.

People are terrified that they will outlive their savings. Any proposed plan must guarantee you cannot outlive your Social Security benefit. You can outlive your IRA. You can outlive your savings. But we must guarantee that you will never be able to outlive your Social Security. This is especially important for women. Women live longer than men. But you must never, ever be able to outlive your Social Security. You must know what your benefit is. It must keep pace with inflation. The plan must be inflation-proof.

Today Social Security also does not penalize you for living longer. Women live longer than men. Women need a plan with adequate cost-of-living increases. $800 a month in 2005 will not buy the same things in 2015.

Think about it: How does rent today compared to 10 years ago, and what will it be in 2005, 2025? We must have a guaranteed plan that protects against inflation.

Second, we need to preserve Social Security's protections for workers when they are disabled as well as when they retire, and for workers' spouses and children when workers are disabled, retire, or die.

Social Security guarantees that if you suddenly become disabled you will not also be suddenly poor. If a woman's husband dies, Social Security guarantees that there will be an income for her. If your spouse suddenly dies, Social Security guarantees that your children will be provided for.

Three million children in this country receive Social Security benefits because their parent was disabled or killed; 52,000 in my State of Maryland alone. We must be able to depend on these benefits. Honor your mother and father.

It is a great commandment to live by—and it is a great commandment to govern by not only as a commandment, but in the federal law books. Make sure it is in the federal checkbooks. Now, this is family values.

Third, we need to protect against impoverishment of women by maintaining Social Security's progressive benefit structure.

Social Security rewards work and recognizes that all work has value. Someone may work for minimum wage but make maximum effort. Social Security provides a minimum floor of protection to keep seniors out of destitution. Social Security has a progressive benefit structure. That means it protects women who work part-time to be a full-time mom. It protects stay-at-home moms who do not earn wages, though what they do is priceless. It protects women who work at minimum wage.

Social Security, with its progressive benefit structure, guarantees there will be enough benefit to live on, even

though you may not have earned much while working. Though you may struggle to make ends meet now, the program will make sure you receive a benefit you can live on. Social Security makes sure you won't be poor.

Fourth, we need to strengthen the financing of the Social Security system while ensuring that women and other economically disadvantaged groups are protected to the greatest degree possible.

For many elderly women, Social Security is not a supplement to their income, it is their income. Compared to men, most women do not receive employer-provided pensions. One-third of women must rely solely on what they receive from Social Security. When you are old and when you are sick, there are not many things you can count on, but you should be able to count on Social Security.

Social Security is more than a safety net. It is a life boat. We need to make sure more senior women and all low-income workers get the benefit of the safety net, and share the life boat. To the people of Maryland, I am on your side. For today and tomorrow, I am going to fight for you to have a benefit that you can count on. In my state, 732,000 people receive Social Security benefits, including nearly 400,000 women. They all need a guaranteed benefit, not a guaranteed gamble.

Without Social Security, almost half of elderly women in Maryland would be poor. Honor your mother and father? We need to protect them and the whole family. We often forget how Social Security protects children. There are 52,000 children in Maryland who depend on Social Security. That means that something happened to one of their parents. They either died or became disabled. We must keep our promise to protect our children. We cannot gamble their future. Now this is a family value. What will privatization cost Americans?

Another big issue for our children is the debt that privatization will create, not just for us, but our children, our grandchildren, and their children.

The transition to a private account system will cost trillions of dollars—yes, trillions of dollars—trillions of dollars that we will have to borrow from another country.

This will cause higher interest rates for our mortgages, our credit cards, our cars, our student loans.

Privatization will squeeze our federal budget even tighter. It will lead to higher taxes on everyone, and cuts in the funding for essential Federal programs besides Social Security, such as Medicare and Medicaid.

This will be bad for the economy, bad for family budgets, and bad for future generations. This is not the legacy we want to leave to our children and grandchildren. Why must we prevent privatization?

Now let me repeat why privatization is bad for America. Privatization will replace the security of a guaranteed check for a guaranteed gamble. Privatization will eliminate the dependability and predictability of seniors income. Privatization will not be inflation protected so year after year seniors incomes will go down. Privatization will eliminate guaranteed survivor benefits for widows.

Our seniors would have to give all this up for the hope that every single one of them will successfully invest in the stock market. We know how unpredictable and brutal the stock market can be. We cannot place the security of our senior citizens in the private market. They deserve better. They have been promised more. I am here to say we are going to live up to those promises.

We are not going to go back to a time when elderly poverty was commonplace and accepted. We need to strengthen Social Security and improve it. How? By not playing politics, by not being ideological, by working together, by being bipartisan, and doing what is right for America. I am prepared to do that. Democrats are prepared to do that.

We did it last time Social Security faced problems. I worked with President Reagan on Social Security. He created a climate of civility and respect. We all worked together, across the aisle stabilized the Social Security program.

We need to make some changes in the Social Security program, but only modest changes to strengthen the program, not gut it, not gambling with our seniors.

President Bush should follow the Reagan Social Security model, seek responsible changes to Social Security, work with Democrats, do what is right for our seniors, and do what is right for America.

I will join him.

I know the Democrats will, too.

There are colleagues on the floor and I want to yield so they have the time to talk. There are many more things on which I am going to elaborate, such as how this privatization will increase debt, how it will cause rising interest rates, how this foolhardy plan is based on a model that we are taking from the Government of Chile. I respect the people of Latin America, but their pension program has gone bust. This is not what the United States of America should be.

So when I cast my vote, I want to vote for the stability of a social contract that has a guaranteed lifetime benefit. I will not vote for something that is a gamble and then puts us in the wheel of misfortune. I am deeply concerned that if we pursue some of the recommendations that are being made, we will have lower benefits, we will have rising interest rates, and we will have instability in both the market, in pensions, and in Social Security.

What is the wheel of misfortune we could end up with? People could end up outliving their savings. They could end up disabled and broke. Social Security could lead to poverty rather than a minimum floor. It could be that there has been a market crash and people could never retire and while that is going on interest rates go sky high.

I remember a time in the late 1970s and early 1980s when one could not get a mortgage for less than 15 percent. If one got a home equity loan at 10 percent, they thought they had died and gone to heaven. Car insurance was at 22 percent. Credit cards were at 24 percent. We do not want to ever go there.

I worked with Ronald Reagan to stabilize Social Security in 1983. I want to work with George Bush in 2005. But I will vote for a guaranteed benefit, not a guaranteed gamble. And I would never want to have Social Security just turn to the wheel of misfortune.

I note that my colleagues are in the Chamber, and I now yield 10 minutes to the Senator from Washington.

The PRESIDENT pro tempore. The Senator from Washington is recognized for 10 minutes.

Mrs. MURRAY. Mr. President, I am very proud to join the senior Democratic Senator from Maryland, along with all of my Democratic women colleagues, to declare that we are going to fight to make sure we have a guaranteed benefit to keep the security in Social Security.

A few short years ago, just after the 1932 stock market crash and the onset of the Great Depression, one of our Nation's greatest leaders, Franklin Delano Roosevelt, set out to create a program to provide peace of mind and a sense of security to America's retirees. During his crusade to create that program, FDR said there is no tragedy in growing old, but there is tragedy in growing old without means of support.

The program that he created to this day is the single greatest social insurance program in our Nation's history. Social Security has been a resounding success by keeping millions of people out of poverty in this country. We are here today to remind this country that women in particular benefit from the guaranteed benefit that is in Social Security, and we are going to fight to make sure it remains there for the women who follow us.

Months before the new program was enacted, back in the early 1930s, FDR laid out his vision of how important this program was and how it should be implemented. He said:

> We can never ensure 100 percent of the population against 100 percent of the hazards and vicissitudes of life. But we have tried to frame a law which will give some measure of protection to the average citizen, and to his family against the loss of a job and against poverty-ridden old age. This law, too, represents a cornerstone in a structure which is being built, but is by no means complete . . . It is . . . a law that will take care of human needs and at the same time provides for the United States an economic structure of vastly greater soundness.

Those were the words of FDR in 1935. But today, this cornerstone, this basic American value, is now under attack.

We are here today to say we are fighting back. President Bush is currently traveling the country, saying Social Security is in crisis and needs to be radically restructured. I rise today to reaffirm the values and the spirit FDR laid out 70 years ago. Social Security has pulled seniors from poverty and put millions of retirees' minds at ease. America's insurance program is a guaranteed benefit all Americans can count on. It is a promise that, if you work hard, you will have some security when you retire or if you become disabled. It is a promise our seniors will not live in poverty. It is a promise if your spouse passes on, you will continue to have the support and the security you need.

Of course, this program is more than just security. It is about community. That is a value we as women share—community. In America, we believe it is important to take care of the generation that came before. It is important to guarantee them a quality of life. It is important that we guarantee benefits after a lifetime of hard work. I am concerned that President Bush's so-called restructuring will imperil the security of all Americans, from young workers who are going to retire decades from now to seniors who are retiring today.

The problem with this plan is it is not a guaranteed benefit. It does nothing to fix the long-term issues this system does face. It adds trillions of dollars to our national debt at a time we cannot do that any longer, and it is dangerous. We cannot and we will not let President Bush tear apart our Social Security system.

While some are trying to enrich Wall Street or push an ideology of market experience on our senior citizens, our priority in this discussion should be to ensure we are doing right by those who are relying on Social Security, from current workers to retirees, from the disabled to widows.

Current and future retirees need someone to stand up for them. If I see something that is going to hurt our workers, our families, our seniors, and women in particular, I want the Senate to know I am going to fight, along with my women colleagues, with everything I have.

Any discussion about Social Security that we have has to meet criteria if it means to be productive. You can call it a test. Any proposal we discuss must pass this test if it wants to move from this body.

First of all, we have to ensure Social Security has a guaranteed benefit. Second, we need to make sure Social Security protects workers when they become disabled. Next, we must protect against benefit reductions for women, minorities, and others. And we have to protect our budget from growing deficits. Anything short of this would be an unnecessary, dangerous gamble, as the Senator from Maryland has pointed out, unworthy of an important insurance program.

While we are at the beginning of this discussion in this body, my female colleagues in this body have worked for years to ensure some basic principles to follow as we move forward. The promise of Social Security is especially important to women because women face unique challenges in retirement. Women make less money than men throughout their lifetimes. Women leave the workforce to raise their families and stay home, something we should value in this country. Women live longer and women are more likely to suffer from chronic health conditions.

Even with those special challenges, today Social Security keeps millions of older women out of poverty. Its benefit formulas are today tilted to give a greater rate of return for lower wage workers such as women and minorities. If the President succeeds in privatizing Social Security, he will destroy the guaranteed benefit that low-wage earners need in their retirement years.

Social Security is not just a retirement program; it is also a program that protects disabled workers and protects their families. That is a value we women want to make sure we protect. If Social Security is privatized, what happens to a worker who is disabled and cannot contribute to her account? Today, under Social Security that worker is protected. But there is no guarantee under the Bush plan. President Bush could undo the progressive structure that older women in this country depend on today, and they should be able to depend on it tomorrow. This is one reform that could have disastrous results and we will not stand for it.

Under this administration, many things we take for granted—from overtime pay, to community police, to safe drinking water—have been threatened. Now President Bush wants to dismantle Social Security. I am here with the women, the Democratic women of the Senate, to say some things are too important to American families. Providing real security to all Americans is a basic value worth protecting. We will make sure President Bush does not gamble that security and break the promise Social Security keeps for millions of women and their families.

I yield the remainder of my time to the Senator from Maryland.

The PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. I thank the Senator from Washington State for her eloquent statement and her passion. I would now like to yield 10 minutes to the Senator from California, Mrs. BOXER.

The PRESIDENT pro tempore. The Senator from California is recognized for 10 minutes.

Mrs. BOXER. Mr. President, I thank my colleague Senator MIKULSKI for taking the lead in organizing the Democratic women. We don't always agree on every issue, but here is one that has united us. I think what is interesting about the Democratic women is we are very different. We are very different ages. We range from the 40s to the 70s. We go from the west coast to the east coast, and places in between—the north and the south. When we can come together like this—knowing that some of us are progressive, some of us are more conservative—in a whole group and say we are going to protect Social Security, we hope it sends a very powerful message to the people of this country, particularly the women of this country and to their families, that we are going to be there for you. That is what this is all about.

Whose side are we on, anyway? I think in the battle over Social Security the sides are becoming very clear. You are either on the side of the families, of our people, young and older, or, frankly, if you follow money you are on the side of Wall Street because Wall Street is going to get billions of dollars if George Bush is successful, and it will come straight out of the pockets of working families.

I used to be a stockbroker so I have absolutely nothing against stockbrokers and I loved working on Wall Street. But I can tell you, and I am sure you know it is true, that markets go up and markets go down. I have seen elation and I have seen devastation. One thing I never saw was a sense of security that the stock market was going to be there necessarily when you need it to be there.

This year is Social Security's 70th birthday. It has been enormously successful. Before Social Security, over half of all seniors were poor. Today, 10 percent live in poverty. That is too much and we want to take care of that. What we do not want to do is go back to the days when 50 percent were living in poverty. So we, the Democratic women, are going to use every tool at our disposal to make sure the people of this country do not wind up in poverty.

Certainly we know Social Security needs adjustments, as your own family budget needs adjustments. We did a major adjustment in 1983. I was over in the House side. Senator MIKULSKI was over in the House side. With Ronald Reagan as President, we all got together, Democrats and Republicans alike, and we strengthened Social Security. Under Bill Clinton, we made some efforts to strengthen it again. The fact is, we have to strengthen Social Security, not destroy it. The fact is, Social Security is not a handout, it is a promise we make to working men and women in this country: You pay into the system, it is insurance, and it will be there for you in your retirement years.

Basically, when the folks on Social Security look at me and say, Will you fight for my Social Security? do you know what I tell them? You earned it, and of course I will make sure it is never taken away from you.

Unfortunately, President Bush's solution is to dismantle Social Security. He can call it anything he wants. He can say he is not going to change it for those already on it. But what about

those who are not already on it? Don't they have a right to have this insurance program, which has been there for so many years?

I will show you what the LA Times wrote. This is not a new issue for George W. Bush. He has been at it for a long time:

Even as a young man, Bush was sympathetic to revamping the program. When he ran for Congress in 1978 he argued that the program would go broke by 1988 if people were not given the ability to invest money themselves.

So here you have the candidate George Bush, way back in 1978, calling for privatizing Social Security. He said it would go broke in 1988.

That is what he said. He was wrong then and he is wrong now. We have to call it the way we see it. He underestimated the bipartisan will of Congress and President Reagan to keep Social Security for current and future generations. Instead of seeking to follow the path of Ronald Reagan, who was supposed to be one of his heroes, he is seeking a path that was plotted over 20 years ago to destroy Social Security. In the course of this debate—not today, at other times—I will share with my colleagues the roadmap that was laid down in the 1980s, a plan to destroy Social Security. George Bush was right there in 1978.

So he is misleading the American people by calling Social Security a crisis. According to the Social Security trustees, there is enough money to pay full benefits until 2042. According to the Congressional Budget Office, there is enough money to pay full benefits until 2052. So, yes, we need to make adjustments so we can keep this program secure, but we do not have to destroy it.

While President Bush is traveling around the country on Air Force One, telling people there is a crisis in Social Security—this is what is amazing—he is giving lip service to the real crises that are right here, right now, under his own nose and on his own watch. What about the crisis of the budget deficit? It is well over $400 billion, that deficit. You want to talk about bankrupt? In my family, if you are spending that much more than you are taking in, you are bankrupt. Let's call it what it is.

What about the crisis of the trade deficit, and the plummeting of the dollar? What about the crisis of the IOU that is given to our kids and grandchildren the day they are born? As Senator REID has said, there is a birth tax on every child today—$36,000 worth of debt. We know the President is going to have to borrow trillions for his plan.

What about the crisis of 40 million Americans without health insurance? What about the crisis of millions of Americans, including 10 million children, who live within 5 miles of a toxic waste dump that is wreaking havoc on their health? What about the crisis of being unprepared for a domestic terrorist attack because we have not invested enough in rail security, port security, chemical plant security, aviation security, nuclear plant security? What about the crisis in afterschool programs, where hundreds of thousands of kids are left out because the President has frozen funding for 3 consecutive years?

I ask unanimous consent for 1 more minute, if I might.

The PRESIDING OFFICER (Mr. ISAKSON). Without objection, it is so ordered.

Mrs. BOXER. The President's solution to Social Security is to borrow, borrow, borrow, throwing us deeper into debt. I will tell you, this is not going to happen under our watch.

I will show you one more chart very quickly.

The plan the President has talked about a lot results in benefit cuts of 45 percent. The average yearly payment for a widow would only be $5,700. Who can live on that? Certainly not those of us here or those in the White House. Widows would be 35-percent below the poverty line if the President's plan goes into effect.

We think Social Security Plus is a place we can start. Keep Social Security and strengthen it, as Ronald Reagan did. We can work together to do that for our young people. I think we can solve this problem and keep one of the greatest programs ever known in the history of our country.

I thank the Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the Senator from California for her longstanding commitment in standing up for what is right in this country, for her eloquent statement on why we need to preserve Social Security, and for outlining what is the real crisis in our country.

We are going to continue our debate with the other Democratic women.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. There is 34½ minutes.

Ms. MIKULSKI. I thank the Chair.

Mr. President, the distinguished Senator from Michigan is in the Chamber, a sister social worker, and actually a person who is licensed to be a do-gooder in our country. She is one who stood up for seniors and who spoke with such passion on the need for prescription drugs. I now yield 10 minutes to her to speak on Social Security.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank the dean of our women in the Senate, the woman who was first and blazed the way for all of us, the distinguished Senator from Maryland. I thank her so much for her leadership on this and other issues.

Our dean has said so many times, honor thy father and thy mother. They are not just important words in the Bible, but they are important words to live by. This debate about Social Security certainly reflects our values in honoring our fathers and our mothers. So I thank her for that.

I rise with my colleagues to speak today about the greatest American success story of our time, Social Security. Prior to Social Security, 50 percent of our retirees lived in poverty. Today, it is 10 percent. If that is not a great American success story, I don't know what is.

We are here unified to say that we want to keep that success story by keeping the ''security'' in Social Security. That is what this is about. We join in advocating for additional ways for people to save. I know my 20-something-year-old children are tired of hearing from me about the fact that they need to be putting dollars aside for the future and not just rely on Social Security.

There are ways we can come together. I was, frankly, disappointed last evening that we did not hear more from the President about ways we can come together to be able to develop those opportunities for everyone to create wealth and retirement security. But we don't do that by undermining the ''security'' of Social Security. Social Security represents the best of who we are, the best in American values. Our belief is that if you work hard and you play by the rules, you earn retirement security. We pay into that, all of us together pay into this insurance policy called Social Security. We deserve a basic quality of life and dignity in older years. Everyone does. And that comes from a joint community effort called Social Security, into which we all pay.

I think it is also important to look at the fact that Social Security is not just about tomorrow. It is an insurance policy, whether you are a 25-year-old like my daughter who is starting a career or you are a 78-year-old like my mother, whom I can barely keep up with, and who is in her retirement years. The fact is, Social Security is there for both of them. Heaven forbid that something were to happen to one of my children and they become permanently disabled. But Social Security would be there as a disability policy. When they have children, if something were to happen and they would no longer be able to care for their children, Social Security steps in as a life insurance policy.

Think about it. This great American success story is a retirement policy, a life insurance policy, and a disability policy. We all do this together. That is what the ''I'' in FICA means. It is an insurance system.

We want to build upon that just as Federal employees are able to build upon that with thrift savings, and there are others, such as 401(k)s, and so on.

By the way, that is on top of Social Security—not in the place of Social Security.

But we stand here today, particularly because we know this insurance plan is of particular importance to women in the country. In fact, 60 percent of all Social Security recipients are women;

1 in 10 adult women receive Social Security disability benefits. As we get older, since we tend to live longer—I think once you get over age 85, you in fact see that the vast majority of people on Social Security are women. This is a fundamental women's issue of economic security.

We stand here unified to say we will fight to keep the ''security'' in Social Security for every woman and their families.

In my home State of Michigan, many Social Security recipients, of course, are retired. We also have 64,000 people who receive benefits either as a widow or widower, a spouse or child of a retired worker or disabled worker. Again, the majority of those are women and children.

We know that strengthening Social Security will require a lot of hard choices. We stand ready to join with colleagues on the other side of the aisle and the President to do that. But first we have to get this notion of privatizing Social Security and undermining it, unraveling it, off the table.

I suggest one approach for us to look at. This is something I feel very strongly about because we make decisions every day on values and priorities. Just like all of us do, we open our checkbook and we pay the bills and write checks. That reflects our values and priorities.

Right now, when we look at the overall Federal revenue in the budget, as I do as a member of the Budget Committee, we have to reflect and look at what we are really saying about our values and priorities for the future.

Consider the fact that keeping Social Security secure for 75 years requires only one-third—about 33 percent—of the costs of the tax plan enacted by the Congress and President Bush for the wealthiest Americans. Think about that.

In other words, if we were to ask those who are most blessed in this country through hard work, through inheritance, through other means, those who are most blessed with retirement security, if we asked them to keep 70 percent of that instead of 100 percent—70 percent is huge. It is billions of dollars in tax cuts. But if they kept only 70 percent of that over the next 75 years, you could keep the ''security'' of Social Security for 75 years.

To me, that makes sense. If we are really about making decisions and investments for all Americans, it certainly makes sense. And it certainly makes more sense than privatizing Social Security.

Here is why. Privatization will cut benefits by one-third to one-half, even for working women who choose not to risk their money in privatized accounts.

This is important. We are not just talking about cutting benefits for those who choose to privatize accounts but for those who do not choose to go this direction. The average retiree would lose more than $152,000 in benefits over the course of a 20-year retirement—$152,000 in benefits over 20 years.

An insurance policy was never meant to be a high-risk investment. We encourage people, on top of Social Security, to make investments. But this was meant to be the foundation for retirement.

I wonder where women would be without the ''security'' in Social Security today.

Beyond the deep benefit cuts and added risks, privatization would add $2 trillion in debt over 10 years. That is almost a 50-percent increase of the debt we have now, which is the largest in the history of the country. It is unbelievable. Unfortunately, much of that would be borrowed from countries such as China and Japan. That raises a whole range of issues economically in terms of our national security.

I think most women would agree that we don't want to pass the debt on to our children and grandchildren, forcing them to bear the burden of ever more debt and higher taxes.

I stand here today with by colleagues to say we will fight to keep Social Security secure, and then we will join in those efforts to both strengthen Social Security in the long run but also to create other opportunities for people to be able to save, people to be able to create wealth, to be able to have retirement security. If we take privatization off the table, which we know doesn't solve any of the problems of Social Security—it only creates more risk and uncertainty—we can then work together to get something done.

That is what people expect us to do. That is what we are here today to pledge to do. The women in this country, every one of our daughters and our granddaughters, and our mothers and our aunts, and all of those girls yet to come, as well as their brothers, deserve a secure retirement. They deserve that under Social Security. They earned that. They pay into it, and they are counting on it.

We are going to stand ready to make sure Social Security remains secure.

Ms. MIKULSKI. Mr. President, there are other Democratic women who wish to speak. They are sprinting from the prayer breakfast. I notice that the senior Senator from Arkansas is here, Mrs. BLANCHE LINCOLN. I will be yielding her time.

I want to note for those observing the proceedings that Senator LINCOLN is a member of the Finance Committee. She is the only Democratic woman on the Finance Committee. We look to her to champion our position, and at the same time we recognize her longstanding commitment to the people of Arkansas—especially those people who work in those rice mills, end up with a bad back, varicose veins, dirt under their fingernails—and their Social Security.

I yield 10 minutes for her to tell us about it.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Thank you, Mr. President. I especially thank my colleague from Maryland, Senator MIKULSKI, who has just been a tremendous mentor to me and so many others with her great leadership. I very much appreciate all of the female Senators who are here to join with us today—to join our voices and make sure that as we begin this discussion on Social Security, which is such a vital program for not just the elderly of our Nation but the disabled, as well as the survivors, that we do it with thoughtfulness, that we do it in reflection of the people we represent, not only their hardships but, more importantly, the dedication they have given to raising the families of this great Nation, and providing the kind of unconditional love and support that makes up the fabric of this great country.

We are proud to be here on the floor of the Senate. I am proud to rise today to speak about the enduring commitment that the American people have made to themselves and to future generations through the Social Security Program.

We find oftentimes that people like to grumble and gripe about government. And we know that government can at times be a little bit rusty, that it is sometimes awfully large. We find that it in many ways may not be a one-size-fits-all, but there is one thing for sure, we know what this country has done right. That is Social Security. It is a program that we can all be proud of and which has allowed us as a nation to espouse the values that are at the core of our being.

I have heard my colleague from Maryland say all the time, honor thy father and thy mother.

Here we have designed a program in years past to allow us to espouse those values that are so important to us; that is, to care not only for our seniors, our mothers, fathers, grandfathers, and grandmothers but also those who might be less fortunate; those who are in dire need of us being able to wrap ourselves around them and provide them the kind of quality of life that we as Americans are proud of—the disabled, the survivors. This is one program we got right. Government got it right.

Has our Nation changed over the last 70 years? Absolutely. And we have an opportunity in a very thoughtful way to look at how we can build upon this program to make sure it meets the demands of today and tomorrow.

Almost 70 years ago, the Social Security Act was signed into law. This law did embody the will of the American people to make sure those who are near and dear to us—the elderly, the sick, the widowed, the orphaned—would not lapse into poverty or deprivation on our watch. That is our charge again today. We are up to the job if we are willing to work together and remind ourselves what our purpose is.

We are now faced with long-term challenges to this very successful program in part because our Nation is

growing older. Folks are living longer. My husband's precious grandmother, who turned 107 last year, sat in front of me in church on Sunday, a remarkable woman with an unbelievable quality of life. She does the crossword puzzle every morning, plays bridge 4 days a week, and I make sure she has a good balanced diet of fruits and vegetables. She is remarkable. There are many more centenarians in this country living healthy lives. They need assurance they will not have to live in poverty.

How we deal with these challenges will affect millions of Americans for generations. It is not just those in the present day, the working individuals of today and the children of today who will be the adults of tomorrow, but it is just as important to me as a young mother of small children that the elderly in my community—my mother, my mother-in-law and father-in-law—have the advantage of this program to provide them the assistance they were promised.

I grew up in a small community within walking distance of both sets of my grandparents. It was easier for us then in those circumstances to go over and care for them, to be able to be a part of their lives. Our worlds are not like that anymore. How many live far distances from our parents or our children? How difficult is it to care for them?

This is a program that ensures, whether you live next door or you live 10 States away, that your parents, the elderly of that community, will have what they need.

I am certainly proud, again, that it is not just the elderly we take care of but the survivors as well as those who are disabled. A young woman on my staff mentioned to me the other day her father died the year she was born and she received those benefits, which was the vision of this Nation and its values, wrapping its arms around her mother and those children to say: Your Nation will be there for you to help you care for these precious children.

Today I will take a few moments to speak on behalf of the millions of women who never made much money during their working lives perhaps, who now depend heavily on their Social Security benefits and could be especially hurt by privatization.

In my home State of Arkansas, more than 272,000 women rely on Social Security benefits. Without Social Security, virtually two-thirds of the elderly women in Arkansas would be forced to live in poverty. Many of those women use Social Security as their only source of income.

I can remember going to the store with my mother and being a bargain shopper. I find myself as a young mother doing the same thing. But it would break my heart to think that my mother had to choose between food, utilities, or pharmaceuticals. Many women find themselves in that position even today. If we privatize Social Security, that will explode. Many of these women do not have trust funds or stocks or bonds to rely on. Their money was spent in different ways. They did not have a lot of expendable money to put into savings accounts. It was used to feed their children, to place a roof over their heads, to educate them, to send them out into the world with hope for a brighter future. They spent their time, their money, their energy, and their soul in creating the lifeblood of this Nation. They also may have spent down their resources to care for a spouse or perhaps a disabled child. These women went to work, and they played by the rules. They baked cookies for the Cub Scout meetings, they paid their taxes on time, they supported their husbands, and they supported their families. And when they became eligible to receive their benefits, Social Security was there for them.

I have heard the rhetoric that those who are close to or in retirement will still receive their full benefit under privatization. What we never hear, however, is that under privatization proposals, younger workers will have their benefits cut significantly. When we talk about privatization and allowing the diversion of payroll taxes into private accounts, we have been told by the Congressional Budget Office and actuaries that there is no way we can do that without cutting benefits, increasing taxes, or creating an enormous debt. We know that when we borrow dollars and we create debt, we are increasing taxes on someone. It will be the children down the road who have to pay that debt.

We have to take seriously the consequences of the decisions we make on this program. Each Member in this body knows our decisions are based on our values and our priorities. But those decisions have real and substantive consequences, and we must remember that every stretch of this debate and understand what those consequences could be. It is not acceptable to tell retired women that we will support you in your golden years, but your daughter and your granddaughter are on their own. We will privatize this system, and we do not know what will happen, so your daughters and granddaughters will be on their own.

Seventy years ago, the American people made a promise to protect future generations of Americans from poverty, and for 70 years the American people have kept their word. We are going to do no less. That promise has allowed hundreds of thousands of low-income elderly women in Arkansas to live lives of dignity. That is what we are here to ensure.

Many women in Arkansas who receive those Social Security benefits live in rural areas. The money they receive is used to buy groceries, to have lunch at the local diner, or to pay their light bills. It might sound like a small amount to some, but Social Security benefits brought almost $5 billion of revenue to small towns in Arkansas. If we cut back those benefits, remember what it is going to do to Arkansas and other rural States where there is a disproportionate share of elderly low income who are spending every nickel of that Social Security check to make sure they can keep body, soul and mind together. It is a tremendous amount of revenue to our States, and they are heavily indebted to those citizens who participate.

Addressing only a couple of issues here is going to be our downfall. We have to focus on everything. We need to make sure we solve Social Security and shore it up for future generations and current beneficiaries, but we cannot fail to see this is a dual path and we have to provide the incentives for personal savings. We must continue to work to make sure that beneficiaries continue to receive 100 percent of the benefits they are due and that future generations are assured that the program will be able to provide the economic security and insurance for them and for their grandchildren. The promise of Social Security should be as good as the promise of a better life that a mother gives to her child.

I yield the floor.

Ms. MIKULSKI. How much time remains?

The PRESIDING OFFICER. Ten minutes and 50 seconds.

Ms. MIKULSKI. We note that Senators CLINTON and FEINSTEIN are on their way. We now note that we have two wonderful women representing Washington State.

We now turn to the junior Senator, Ms. CANTWELL, and I yield her 7 minutes.

Ms. CANTWELL. I thank the Senator from Maryland for her recognition and hard work on this issue. I thank her for the recognition of the fact that we have two women Senators from Washington State. We achieved a milestone this past November when we elected a woman Governor, making us the first State in the Union to have two women Senators and a woman Governor. We are going to speak loudly about the issues impacting women.

I come to the Senate floor to join my women colleagues. I could, I am sure, expound on a lot of comments that have been made in the last several weeks that have gotten some notoriety: the fact that somehow women may be genetically different than men and not be able to excel in math and science or the comment that a colleague made about the fact that now we may be getting closer to pay equity in the future.

The bottom line of this debate on Social Security reform has to be that women are impacted with greater significance because of their longevity in life and because of the shortfall in pay equity that still exists in this country. Where does that leave American women when it comes to Social Security reform?

I could talk a lot about whether the private accounts are great foundations

for this country. I have some grave concerns about them. I also believe at this point in time taking money from the deficit, basically adding to our deficit and paying into what are to be these private accounts may not be in the best interests of the American people.

The point I make this morning is that we are at a time in which women are still getting the short end of the stick in this country. If we want to think about anything in the Social Security reform debate, why don't we think about the way Social Security and cost-of-living adjustments are calculated. Social Security and cost-of-living adjustments do not take into consideration that seniors, older women, are living longer and actually have a greater percentage of their incomes go toward particular goods and services to a larger degree than young people's incomes do. Try buying prescription drugs, try balancing things in retirement and living off of the benefits.

Women are particularly challenged, but older women, being the most impacted by Social Security, will continue to have this challenge for decades to come. So the benefit structure of Social Security is very important. The current pace of change that is happening in the way our economy is transitioning has not necessarily impacted that. In 1963, women earned 59 cents to every $1 men earned. It is true women now earn considerably more than they did in the 1960s and 1970s, but in spite of the steady growth of earnings, the pay gap between men and women has basically been stalled for the past two decades, averaging slightly under 20 percent less than men.

The Senate may be a very unique institution in that it is the only place where you actually have a guarantee of pay equity between men and women. Yet in 2003 women actually saw their earnings decline for the first time since 1995. That means real median earnings of men who worked full time year round remained unchanged in 2002 at roughly over $40,000, and real median earnings of women with similar work experience actually decreased 0.6-percent to about $30,000. As a result, women still only make 76 cents for every $1 that is now earned by men. That is down from what it was in 2000 at 77 cents. We are going in the wrong direction. And now someone wants to suggest that we tinker with Social Security benefits. Think of my mother and the support she had as a woman getting Social Security also from her husband and his Social Security, not having worked, or women who have not worked all their lives in the work place and, instead, being full-time mothers. Now we will say we will calculate Social Security on your earnings. Great. Well, let's have pay equity for women so it is calculated on an equal footing. We are living longer, we are earning less, and the President's proposal will impact us the most. Related to the pay equity statistics I just mentioned, for women's families, this means $24 less a month than men to spend on groceries, child care, and other expenses. In fact, the Institution of Women's Research did an estimate that families in America lose over $200 billion of income per year in this wage gap because of unequal pay that women's families lose, an average of $4,000 annually.

I am asking my colleagues, at a time when we are talking about how to secure the future, how are we going to secure that future for women who are living longer, in retirement, who have this inequity in the system? That is why I am going to introduce a bill later today basically suggesting that we change the cost-of-living index to specifically reflect the current costs that women are experiencing—women and men, alike—in retirement age.

But I think what we need to do now is look at this legislation that is before the Senate and say to ourselves, How is it fair to have the inequity with women when we are not doing anything to close the wage gap? It is actually going in the wrong direction. That includes making sure women in retirement, in the retirement structure of Social Security that we talk about and consider before this body, actually reflect the reality that is happening in America today.

I have talked to many of my constituents about this issue. I am sure we are going to talk to many more over the next several months. One of my constituents, a woman I happened to meet in a local convenience store, said to me: The thing I want is my Social Security money. They have paid into the system. They want something for it.

Frankly, they think when we take Social Security and use it off-budget, to basically say this is how we are covering our huge deficit, that is basically taking from Social Security and not protecting it. What they want to know is, Why don't we get a better return on our investment? Why don't we take, just like a retirement account that she or her husband gets, or a State pension program that gets a higher return, and, basically, take the money that is paid into Social Security and get a higher return on it as well? Yes, and I would say some of my constituents probably think they themselves could do a good job at making private investments. But they do not necessarily think everybody in America will be able to make those decisions at a time in which our economy continues to sag, and there are some people who are unemployed and not fully benefitting and paying into the system, or, as I said earlier about the income-earning disparity between men and women.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator has used 7 minutes.

Ms. CANTWELL. Madam President, if I could ask for 30 seconds.

Ms. MIKULSKI. Madam President, I yield 30 seconds.

Ms. CANTWELL. Madam President, I thank the Senator.

As we go into this debate, the women are going to be loud and clear. This plan for Social Security impacts us to a greater degree than our male counterparts because of our longevity and because of the disparity in wages.

Let's talk about how we make Social Security better for women and for all Americans.

SOCIAL SECURITY AND THE IMPACT ON WOMEN

Mrs. FEINSTEIN. Mr. President, I come to the floor today to discuss the significance that Social Security has for women.

Before the Social Security Act was signed into law by President Franklin Delano Roosevelt nearly 70 years ago, a majority of elderly women in America were living in poverty. If a woman's husband died, she often became destitute or, if she was lucky, went to live with her children or relatives.

The creation of Social Security changed these women's lives for the better. Today only one in five elderly women living on their own is in poverty, though, of course, we wish that number were zero.

Elderly women are now able to live independently and with dignity because of Social Security. We cannot forget the extent to which Social Security has improved the lives of women, and all Americans.

Since its beginning, Social Security has been a mainstay determining what kind of retirement security an individual will have. And because women rely more heavily on Social Security than men, it is a bigger factor in determining their quality of life.

The plan that President Bush is putting forward to reform Social Security would dismantle the most important social program in our Nation's history, upon which millions of Americans rely for their retirement.

I am concerned about this plan because it does not protect the fiscal health of Social Security and would dramatically add to the national debt.

This could be disastrous for women as well as children and minorities because these Americans rely most heavily on Social Security.

Nearly half of all unmarried women 65 and older depend on Social Security for more than 90 percent of their total income.

An even greater number of minorities rely so heavily on Social Security with 66 percent of Hispanics and 74 percent of African Americans in the same category using it for more than 90 percent of their total income.

Additionally, more children are part of families that receive some of their income from Social Security benefits than receive Temporary Assistance for Needy Families.

All of this is underscored by the fact that women face greater economic challenges in retirement than men:

Women tend to live longer than men.

The majority of women's Social Security benefits are based on their husband's earnings, while less than 5 percent of male Social Security beneficiaries depend on their wife's earnings.

Finally, women continue to have lower lifetime earnings than men because, disappointingly, women still earn less than 80 cents on the dollar compared to men, and they are more likely to take time out of their careers to raise a family.

Therefore, any change to Social Security will have a much more powerful impact on women than it will on men.

The administration has tried to instill a sense of urgency for making radical changes to Social Security. I cannot emphasize this enough, there is no crisis.

Despite the cries from the Bush administration, Social Security is not in crisis, though some changes are needed to strengthen its long-term stability.

Based on demographic projections, including the retirement of the baby-boomer generation, there will be more retirees seeking benefits and fewer workers paying payroll taxes. Even so, Social Security is not about to go belly up.

Using very conservative predictions of U.S. economic growth, the Social Security Board of Trustees estimates that promised benefits will continue until 2042, even if no changes are made. Recipients would continue to get 73 percent of their benefits for at least another three decades after that—again, with no dramatic changes to the current system.

To ensure that benefits continue at the current level until 2080, the Trustees say we need $3.7 trillion.

The nonpartisan Congressional Budget Office, which is headed by a former Chief Economist of President Bush's Council of Economic Advisers, says the Trustees are underestimating economic growth.

They believe that only $2 trillion is necessary to close the gap without any revisions to the program. This means that recipients would be able to get all their promised benefits until 2052 when they would draw 78 percent of their benefits until at least 2080.

These are big numbers, but we can ensure that the fund remains solvent much further into the future by making some balanced, long-term changes. We could do this by repealing President Bush's tax cut for those earning more than $200,000 and transferring the revenues to Social Security, which could save about $2.9 trillion over 75 years; raising the cap for payroll taxes gradually from the current $90,000 to $143,000, which could provide up to $1.6 trillion over 75 years; or asking the Social Security Trustees to present Congress with options for updating the system periodically, which Congress would then vote up or down.

These proposals, and others, deserve careful study so that we fully understand the costs and benefits of each. I deeply believe that our Nation should take the time to do this analysis instead of rushing headlong into one plan or another.

It is apparent that change is needed in the system, though not necessarily the fundamental and dramatic change that the President argues we need in the form of private accounts.

But even the President's own advisors acknowledge his proposal would do nothing to address the Social Security shortfall.

In a leaked White House e-mail, Peter Wehner, one of the President's principal advisors, stated ''we simply cannot solve the Social Security problem with Personal Retirement Accounts alone.''

In fact, establishing these private accounts will drain an estimated $1 trillion to $2 trillion from the Social Security Trust Fund in the first 10 years and more than $4 trillion in the following decade.

Too many retirees depend on Social Security as their main source of income for us to rush into its reform without serious consideration of what is best to save the system for future generations of workers.

Mr. President, the advances of women in the workplace are a big reason for the great success of Social Security. When Congress takes up this issue, we must not forget how important this program is, especially to the women who have helped it thrive. It is a source of dignity, it is earned and it is a safety net for these women and it cannot be abandoned.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 2 minutes remaining.

EXTENSION OF MORNING BUSINESS

Ms. MIKULSKI. Madam President, I ask unanimous consent that morning business be extended 10 minutes, equally divided between the majority and minority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I now yield 7 minutes to the Senator from New York State, Mrs. HILLARY RODHAM CLINTON, a long champion of the rights of women, and the rights of the elderly.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Madam President, I thank my colleague, the woman we call the dean of the women in the Senate.

Mrs. CLINTON. Madam President, we are here on the floor this morning, after last night's State of the Union Address, to begin what is going to be a debate about the future of Social Security.

Now, last night we did not receive any details from the President, and we do not know exactly what the President intends to propose. But based on the reports in the press and some of the briefings coming back that Senators have held with administration officials, there seems to be an expectation that the President will do several things.

First, launch a very aggressive campaign, using every tool at his disposal, which is considerable, to persuade the country that Social Security is facing an imminent crisis, and that the responsible course of action is to do something, preferably what the President will recommend, and that the irresponsible course of action is to somehow argue with or question this presumption of there being a crisis.

Secondly, it appears the President's plan will include privatization. Now, I understand the White House has sent out the word they do not want to use that word anymore, but let's not be fooled. What they are attempting to do is take a Social Security system that has worked for generations of Americans and begin the process of privatizing it. They can call it personal accounts, they can call it ownership, they can call it wealth creation, they can call it whatever they want to call it, but the bottom line is this will be a plan to begin the privatization of Social Security.

And thirdly, it appears the administration will attempt to finesse, if not downright conceal, the real costs of their plan—in benefit cuts, in additional borrowing, and increasing the debt facing our Nation.

So this will be a generational debate. I regret that because I think there are other ways to deal with some of the questions that are raised about the future of Social Security.

I think we could do what was done under President Reagan, who showed great leadership in bringing together a bipartisan group which came forward with recommendations at a time when Social Security truly was facing a crisis. People of good faith on both sides of the aisle came together, agreed upon the facts, did not try to spin, did not try to embroider, did not try to create a sense of hysteria, but, in a very businesslike, professional manner said, ''What are the facts?'' and then came up with solutions to the problems faced in 1983. We should be doing the same.

I earnestly hope the President would adopt that model of President Reagan. He often refers to President Reagan. Here is one instance where I think everyone can salute the leadership President Reagan showed.

Those who support private accounts say they are necessary because Social Security faces what they call a crisis and is on the verge of financial collapse. Supporters of privatization say the way to avoid this collapse is by carving private accounts out of the system.

This is not only a scare tactic, which I deplore and regret, but it is wrong on

two counts. First, there is no imminent collapse of the Social Security system. And I want to assure everybody who is a faithful C–SPAN watcher out there—and I know there are millions of you—tell your friends and neighbors: Do not be misled. There is not any danger of an imminent collapse of the Social Security system.

Secondly, and equally important, privatization makes the challenge of fixing the problems Social Security faces decades from now more difficult, not easier, to solve.

Now, let's be clear. Social Security does have a financial challenge that does need to be addressed, but the fact remains that program will continue to run annual surpluses for decades to come and can pay full benefits until between 2042 and 2052. After that—and I won't be around for that, but hopefully my daughter and everyone else's children and these young pages will be—Social Security still will not be bankrupt because payroll taxes coming into the system will be enough to pay almost 80 percent of the benefits promised today if we do nothing to fix any problems so that we can provide whatever the 100-percent benefit level would be in 2052.

So I believe Social Security may require some action to ensure that it remains strong, but it does not require fundamental changes. I would strongly caution against this ''medicine'' the President is prescribing. It will make the patient, who is well, sick. It will undermine the long-term health and quality of this remarkable achievement of the 20th century. Because, after all, Social Security is the largest source of retirement income in the United States. For 6 out of 10 seniors, it provides half or more of their total income.

My mother was born in 1919. I hope she does not mind me telling everybody. Let's remember that before the enactment of Social Security, more than 50 percent of the Nation's elderly lived in poverty. We are talking about destitute poverty. Today, only 8 percent of seniors live in poverty. Let us also not forget that it is women like my mother who constitute the majority of Social Security beneficiaries: approximately 60 percent of Social Security recipients over the age of 65, and roughly 72 percent of those over 85. In my State of New York, more than 1.6 million women receive Social Security benefits.

The PRESIDING OFFICER. The time controlled by the Democrats has now expired.

Mrs. CLINTON. Madam President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. CLINTON. Thank you, Madam President.

So you can see why we have come to the floor today to talk about the way this affects women, because among elderly widows, such as my mother, Social Security provides, on average, nearly three-quarters of their income. Four out of 10 widows rely on Social Security to provide 90 percent or more of their income.

Now, we heard the President say last night that people over 55 need not worry. Well, what about people between 20 and 55? What about the 50-year-old woman who has paid into Social Security for the last 30 years? What about the 40-year-old woman who has paid into Social Security to ensure the retirement security of her mother and expects the same from her daughter? These are very important questions because they go to the heart of our intergenerational compact.

So this is the first of what will be a long and very active debate. Let us hope at the end we conclude that we should follow President Reagan's example, swallow some medicine that will not kill the patient, work in a bipartisan manner, and preserve Social Security for years to come.

Madam President, I thank my colleague from Maryland.

EXTENSION OF MORNING BUSINESS

Ms. MIKULSKI. Madam President, I ask unanimous consent that morning business be extended for the majority for 2 minutes, and I thank everyone for their graciousness in extending morning business. I appreciate that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

STATE OF THE UNION ADDRESS

Mr. BENNETT. Madam President, the State of the Union Message has become a great moment in American political theater. Originally, State of the Union Messages, which are called for in the Constitution, were submitted to the Congress in writing. Perhaps it is a demonstration of the fact that we have gotten into the world of modern communications that it has now become not just a presentation to the Congress, but, through the medium of television and radio, it has become a speech to the Nation.

So the Nation gathers around electronically to listen to its elected leader describe what is going on in the country and in the world. We had that experience last night. Last night's was one of the better State of the Union Messages we have had.

In today's world we have instant polling, we have instant results. This morning's hotline reports there are two polls out, one saying that 86 percent of those who viewed the speech liked it; the second poll—CBS, less favorable to the President—says it was only 80 percent of the people who viewed the speech liked it. And according to the Gallup poll, 77 percent of those who liked it now believe President Bush is leading the country in the right direction.

This is a home run, for a speech to have that kind of a reaction and make that kind of an impact on those who listened to it. It was a departure, in my view, from the traditional format that has settled in on State of the Union Messages—not a complete one but a partial departure in that State of the Union Messages have become laundry lists where Presidents have made a one-sentence or one-paragraph reference to the issues that are of great importance to a variety of special interest groups, so that each member of a special interest group can wait anxiously in the hope his or her moment will come when the President will say something nice about what he or she thinks is important.

There was some of that in the speech last night. You cannot have a modern State of the Union Address without it. But there was far less than we usually see because last night's speech was primarily a thematic statement of the President and his world view, both domestic and international.

As I listened to the speech unfold and caught that theme, I realized this is a President who has a truly broad and far-reaching world view.

His primary focus was on the future. His primary concern, both domestic and international, was on the benefit of what we might do that would accrue to our children and our grandchildren.

We have had a lot of conversation so far about Social Security. The President did spend a good deal of time on Social Security. While I am praising the President, I will join with my friends on the Democratic side of the aisle to say that I think he made one mistake in his presentation. He used a word which, if I had been in conversation with him and his speechwriters, I would have recommended he drop. The word was ''bankrupt.'' The Social Security system will not go bankrupt.

If we do nothing, what will happen if we follow the impulse of those who say there is nothing that needs to be done will be that when the account balances currently listed under the heading of the Social Security trust fund run out, there will still be money coming in in the form of payroll taxes. It will simply not be enough to cover the obligations going out that have been laid there. So the Social Security Administration will have to adopt some kind of strategy to deal with that. Maybe it will be like the gas lines. If your birthday is in an even numbered year, you get a check this month. If it is an odd numbered year, you have to wait until next month. Maybe it will be some kind of alphabetical choice, or maybe everybody will just be told: We can't send out any checks this month. Wait another 30 days and we will do the best we can.

By technical accounting terms, that is not bankruptcy, but by any standard, that is not a result we want. So while I would say to the President, don't use the term ''bankrupt'' because, as an accounting term, that is

not directly correct, I do say to the President: Thank you for having the courage to lay out the facts that virtually everyone understands and knows.

The fact is that Social Security is under irreducible pressure from the demographic trends in which we find ourselves today. There are trends that we like. We are all living longer. We are all healthier. The Nation is seeing more and more of its workers survive into old age. Who could be against that? But the references that have been made in the Chamber about 1983, why don't we just do what we did in 1983, which was basically to kick it down the road so it could get dealt with later on, don't apply now, because we are on the verge of the retirement of the baby boomers.

As I was driving in this morning, I heard the radio talk about 77 million baby boomers and when do they start to retire. When do they start to put the pressure on the system? It is not 2048, when all of us are dead. It is not 2018, when the projection is that the lines will start to cross between money coming in and money going out. It is 2008. It is within the term of those of us who just got elected. Within our next 6-year term the pressure on Social Security will begin to build. In 2008, it won't be overwhelming pressure. In 2009, it won't break the system. But it will begin, it will continue, and it will grow. We need to do something about it now or future generations will look at us and say we were the ones who were irresponsible, we were the ones who buried our heads in the sand, and we were the ones who said: Let somebody else take care of it somewhere down the road. If we want to do the responsible thing, we act in this Congress.

What struck me about the President's proposal is that he did not lay down an edict and say: This is what it has to be or I won't sign it. He listed a bunch of different solutions, most of which have been proposed over the years by Democrats, and then made the statement: They are all on the table. In other words, let's talk. And the boos that came in the Chamber—and I have never heard that in all of the State of the Union Messages I have ever heard—the boos that came in the Chamber as the President laid that down said: We are not willing to talk. We are not willing to talk to you, Mr. President. We are so offended by the idea that you say there is something that has to be done that we will not even engage in this dialog.

They are making a tremendous mistake when they take that position. Because the President said, once again: Here are the various proposals. He quoted a number of Democrats as to the proposals. He put forward his own proposal in general fashion, but he made the specific quote: It is all on the table. The reaction that came back from a portion of the people on the other side of the aisle was: We are not willing to talk. We are not even willing to have the conversation.

The message that sends to the young worker just graduating from high school who is saying: I don't want to be there in my career when the Social Security Administration has to decide which checks to send out or which months to pass up or which benefits to say we can't afford, I want the Congress to start doing something now so when I retire, I can see certainty—I think the people in that situation will look at what happened last night and say: The person we must depend on to lead to the solution of the problems that we will have in our lifetimes is President Bush.

Let's leave Social Security to make one other comment about the speech. I thought this was very much a theme speech. The theme was the future, and the underlying force behind the President's theme was his optimism and his conviction that the future can be better, better domestically, better for workers who are looking forward to a career and then retirement. The same sense was included in his statement about foreign affairs. The future can be better.

He talked about Afghanistan. The future is already better in Afghanistan. I have a high school and college classmate who does business in Afghanistan. Can you imagine that—a businessman from Utah who is doing business in Afghanistan. He says to me: Bob, you can't believe how marvelous it is, as an American, to walk up and down the streets of Kabul and have people grab you and hug you and thank you and say: What has happened in Afghanistan is magnificent. The future of Afghanistan is much brighter because of what George W. Bush did.

We ignore that because it is overwhelmed by events in Iraq. But as was pointed out by the President, what happened last Sunday makes it clear that the future in Iraq is much brighter because of what George W. Bush did.

As he talked about the future and his optimism and his conviction that what we do now is important for the future, it all came together in the most dramatic moment of the speech, when the woman from Iraq, with her ink-stained finger, embraced the mother of the dead marine who demonstrated America's resolve to bring freedom and liberty to the world. I don't think there were many dry eyes in the Chamber when that happened. And it was not scripted. It could not have been scripted.

I once said to Karl Rove: George W. Bush is as good a President as Ronald Reagan, but he is not as good an actor. Last night he wasn't acting. We saw the real George W. Bush, and we saw the real emotion as the woman from Iraq reached out to comfort and thank the mother of the dead marine.

Freedom is on the march in the world, and the future looks brighter than it otherwise would have been if it had not been for the actions of George W. Bush.

I close as I began: These speeches have become American political theater and fairly predictable. Last night's was an exception. Eighty-six percent of the people who watched it liked it. To get that kind of support from the American people is an extraordinary accomplishment, and the President deserves congratulations for having brought it off.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Madam President, I congratulate my good friend from Utah on his evaluation of the President's outstanding State of the Union speech last night. I was just thinking that this probably is the 20th State of the Union I have had the privilege to witness and observe in the Chamber of the House of Representatives. None have been finer. Indeed, the moment that captured the evening was, of course, the embrace between Janet Norwood, mother of the marine who was killed in Fallujah, and the Iraqi woman whose father was killed by Saddam Hussein. The junior Senator from Utah has it exactly right: There was not a dry eye in the House. I watched a lot of really tough customers shedding tears on the floor of the House during that moment. But it summed it up, what this has all been about.

Of course, we went to war in Iraq to make ourselves safer, but there was another sort of collateral purpose. The President believes deeply—and I think the American people are beginning to get it—that when democracy takes root, the world is a safer place. And just look at the sweep of democracy in the last few months in the most unlikely places.

I had the opportunity to go back to Afghanistan a couple weeks ago. It was my second trip there. On my first trip driving from the airport to meet with President Karzai in downtown Kabul, the streets were largely silent—not many people out, almost no commerce visible. But 15 months later, in January of 2005, there are little stores springing up everywhere, traffic jams in Kabul. And people are clearly on an emotional high as a result of the extraordinary election they had last October 9 which included a virtual 80-percent turnout, including 82 percent of women in Afghanistan, of all places, where little girls were not even allowed to be in school a few years ago, a huge success story in one of the most backward and devastated countries in the world.

On the heels of an election in Georgia, which has had its problems getting started in the wake of the end of the Soviet Union, and the literal uprising in Ukraine, when there was an attempt to steal the election, to deny the will of the people, the Ukrainians rose up and even a supreme court in Ukraine, obviously beholden to the President who was in cahoots with those who were trying to steal the election, ruled against those trying to steal the election and said: We are going to have another election, which they did the day after Christmas. The forces of democracy rose up and took control of

Ukraine for the first time since its freedom from the Soviet Union.

And the Palestinian territory—Palestinians used to Saddam-type elections, where there was a 99-percent turnout and no choice—had a real choice of who to lead the Palestinian Authority in the wake of Arafat's death. A man got elected who appears to be a reasonable leader, working hard with Prime Minister Sharon to try to achieve a lasting peace.

We wish Secretary of State Rice well as she departs today to go to the Middle East to meet with Sharon and Abu Mazen to see if they can finally get the roadmap back on track at a meeting with Abu Mazen and Ariel Sharon, not to mention last Sunday's inspirational election in Iraq. Many Members of the House of Representatives last night had inkstained index fingers themselves to sort of symbolize our enormous admiration for the extraordinary courage that it took to go out and vote in Iraq last Sunday.

The critics and naysayers will say the turnout was not what it should have been in the Sunni area. But the overall turnout was about what we had last year in this country. I am fairly confident almost nobody in America thought they might get shot if they went to the polls. So there was extraordinary courage, literally under fire, dancing in the streets, the waving of those inkstained index fingers all over the country. The Sunni turnout was not what it will be later, but the people building a democratic Iraq understand and will include an adequate number of Sunnis by appointment in the interim government.

And remember, there are going to be two more elections in Iraq this year. A constitution will be submitted to the voters of Iraq in October. It will not be ratified if only 3 provinces disapprove out of 18. At least four provinces are Sunni majority. That constitution will have to be crafted in such a way that the Sunni population of Iraq is comfortable with it, or it will not be ratified. The leaders of the emerging democracy in Iraq are all acutely aware of the need to respect the rights of minorities and to have proper balance in Iraq in order to have a governing democracy.

If we had any doubts they would make it, we don't have any now. Our friends and colleagues on the other side who have said the signal from the election is to leave have it exactly wrong. The President made it clear last night, and he was absolutely correct, that you never announce to your enemy when you are going to leave. We will leave Iraq one day, even though we are still in Germany and still in Japan some 60 years later; and we are nowhere in the world where we are not wanted. We will leave Iraq some day, when the Iraqi democracy has taken hold and when the Iraqi military and Iraqi police can provide for their own security—and not a day before that.

I had a chance to be in Iraq 2 weeks ago, too, for the second time. There was some nervousness, candidly, about this election. Nobody knew for sure how successful it would be. Carlos Valenzuela, from the U.N., an elections expert, was there and he said: ''This election is going to pass international standards, I am absolutely certain of it.'' This is a man who has been involved in conducting elections 14 times in difficult places around the world. He was totally confident 2 weeks before the election. He was right and the naysayers were wrong.

Even those who originally were between skeptical and hostile to the Iraq war we had an opportunity to sit down with on that same trip a couple weeks ago. We went back to Brussels with the NATO Ambassadors and a European representative. I think it is not an exaggeration to say that even the Ambassadors from France and Germany to NATO believe at this point that it is in everybody's interest for Iraq to be a success.

Who benefits by a failure in Iraq? No one but the terrorists. I think the President will find on his upcoming trip to Europe more interest in cooperating, in helping to move Iraq further down the road toward democracy.

So last night was indeed a celebration of the march of democratic forces in some of the most unusual places in the world over the last 4 months. The President went a step further, challenging our allies, the Saudis, to begin the march down the democratic path. Even our staunch ally, Egypt—he challenged them to begin a march in the democratic direction. The President deeply believes—and we are increasingly inclined to believe he is correct on a bipartisan basis—that the spread of democracy will make the world indeed safer.

Now, the President was, of course, criticized initially on Iraq for not being very multilateral, in spite of the fact that a majority of NATO countries supported the war and helped us. Nevertheless, he was criticized by some who, I guess, only feel that France and Germany are Europe and no one else counts, saying he was not multilateral enough. The President laid out last night a completely multilateral strategy related to the two most obvious rogue states left in the world, Iran and North Korea. The Germans, the French, and the British are leading the talks with the Iranians; and working with the North Koreans, we have the Russians, the Chinese, the South Koreans, the Japanese, and ourselves. That is the definition of a multilateral approach.

So the President develops his approaches depending upon the situation, and every situation is not exactly the same. He knows, and the new Secretary of State knows, we need significant international cooperation in order to achieve our goals in North Korea and in Iran. North Korea and Iran can take a look at Libya and see the rewards for going nonnuclear. To be welcomed into the community of responsible countries means trade benefits, it means an opportunity for interaction with the rest of the world, and a chance to improve the lives of the citizens through trade. There are a lot of advantages that I hope the leaders of North Korea and Iran will observe that Libya is going to begin to benefit from as a result of making the decision that maybe the Libyan people would be better off being engaged with the rest of the world, rather than having some weapons of mass destruction sitting there. For what purpose?

So enormous progress has been made in the last 4 years. The low point was 9/11. We all remember it well. But extraordinary progress toward a safer world and toward the spread of democracy has occurred under the extraordinary leadership of our President. We had a chance last night to celebrate that and to commend him for a job well done in last night's State of the Union.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

PROVIDING FOR INJURED AND FALLEN SOLDIERS AND THEIR FAMILIES

Mrs. DOLE. Mr. President, we must do everything possible to show our military men and women and their families how much we appreciate and honor their service. Last week I was proud to cosponsor legislation introduced by Senators ALLEN, SESSIONS and LIEBERMAN reaffirming the commitment of this Congress to our military men and women and their families. This effort has received my strongest support, and thanks to the endorsement of the Leadership and the work over the past years by many of my other colleagues, an increase in financial support to the families of men and women killed in combat could soon be a reality.

When a soldier pays the ultimate sacrifice, no amount of money can ease the grief of his or her family, but a significant increase in the benefits paid to our military families sends a strong message of our gratitude and support.

Currently, when a service member is killed in combat, the family receives only $12,420. This is simply unacceptable. We are a strong, prosperous Nation, a Nation that honors and respects our sons and daughters in the Armed Services. We can and must do better to provide for the families of those who've lost their lives. The current proposal to increase what is called the ''death gratuity'' to $100,000 is most certainly a step in the right direction.

This increase, retroactive to October 2001, is critically important not only to the families who lose loved ones, but to soldiers currently serving or those who are considering enlisting. It sends the message that we value their service, and should something happen to them, their families will be generously cared for.

Maxine Crockett of Fayetteville, NC, lost her husband, Staff Sergeant Ricky L. Crockett, to a bomb blast in Baghdad in January of last year. She and

her 15-year-old daughter were left not only grief-stricken but worried about surviving financially with the loss of a provider. Maxine told the Raleigh News & Observer, ''When it comes down to just one income, this [increase] would really help by giving you the time to get back on your feet.''

When a family does receive the heartbreaking notification that a loved one was killed in action, they are understandably overcome with grief. In the midst of their devastation, they are required to make many decisions. Casualty Assistance Officers play a critical role in helping them through this process. I had the privilege of meeting many of these dedicated, impressive men and women personally at Fort Bragg last year. These officers are there with the families following notification, through funeral preparations, burial and the process of determining benefits and compensation. They assist when any problems arise and literally go above and beyond their job description. And long after, these families know these officers can be contacted as concerns arise. This is the kind of service and compassion these families deserve.

We also have a responsibility to assist those servicemen and women who are seriously injured and their families. With the improvements in body armor and heroic efforts of our military medical teams both in theater and at home, so many more of our soldiers are surviving, but often with debilitating wounds. We must ensure they are taken care of, physically, emotionally and financially.

I am so pleased that the Department of Defense today launched a new operations center for these deserving heroes and their families to provide them with the necessary support as they transition back to active duty or into civilian life. This center will integrate the programs currently sponsored by various military and Government services, making it easier for these individuals to access the medical, counseling, educational, and financial services they need and deserve.

Our injured and fallen heroes and their families must be a top priority. They deserve no less.

Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

STATE OF THE UNION ADDRESS

Mr. ISAKSON. Mr. President, last night we had the occasion on the House floor to hear a speech from the Commander in Chief, the President of the United States of America—a speech that to me was about two overriding themes—one, freedom, and the other, security—and two primary subjects—one, the war in Iraq and its liberation, and the other, the security of the American people and their retirement.

To the first, I simply say, as eloquent as the President's speech was, as dramatic as his words were, and as many of them as there were, the most powerful message last night was not words, but a picture. For when Janet Norwood embraced Sofia, the President stopped speaking, the Chamber erupted, tears flowed, but not a word was said. If the saying ''a picture is worth a thousand words'' was ever appropriate, it was on that occasion.

I am very proud of our men and women in the Armed Forces, I am proud of this Congress, I am proud of this President, and I am proud of the people of Iraq and Afghanistan, and all freedom-loving people.

The second subject the President addressed was Social Security, which is all about freedom and security, and it is the subject about which I will make my few remarks on this morning.

I would like to begin these remarks by asking you to visualize another picture. Think about how powerful Sofia and Janet were, and think about this picture. Picture the year 2042 or 2052, if you like. Picture you in your living room or your den. Picture you looking at your son or your daughter and their grandchildren squarely in the eye, and picture explaining to them that when you had the chance 37 years earlier, you did nothing to secure their future.

There are those who say Social Security does not have a crisis today, but it has a big crisis tomorrow. When I entered into my campaign for the Senate, I ended every speech by saying ''I will soon be 60''—and I am 60 now—''and the rest of my life is about my children and my grandchildren.'' So it is true about all of us in this room. To do nothing is unacceptable if you visualize that picture 37 years from now, if you look at your daughter or your son or their grandchildren. I want to talk about Elizabeth Sutton Isakson and Jack Hardy Isakson, both born last year, both of whom will be 37 in 2042 when I would have to give them the ''good'' news—if this Congress did nothing—that America's promise on Social Security is gone, that by law their benefits are lowered and, by absolute practice, their taxes will be raised.

I heard someone in opposition to reform last night criticize the President for saying it is their money. They said it is not their money. They said, ''It is my mother's money.'' That is what is wrong with the system. We have robbed Peter to pay Paul. We are running out of Peters, and we are getting a greater number of Pauls.

Now, personal accounts and a nest egg in the future are a viable decision that should not be criticized and rejected out of hand. In fact, I will tell you an interesting little fact. Had the United States of America 70 years ago invested the surpluses of the payroll tax paid by the American workers throughout that time, we would not have the problem today. But we robbed Peter to pay Paul.

There are those who say personal accounts are a gamble. Arithmetic is a fact, and facts are stubborn. In the 70-year period since the advent of Social Security, pick any 20 consecutive years that you like and pick any traditional conservative investment model that you like, and in that 20-year period of time, it exceeded the return on Social Security four to five times.

The time value of money is the solution to all problems. Procrastination on the investment of money is a message for disaster. We should not reject this debate out of hand. We should embrace it. We should not reject personal investment; we should encourage it.

Who in this room has not told their children, when we created IRAs, to invest in them because you cannot count on Social Security? Who in this room has not said it? It has been said this morning. I told my children to plan on more because Social Security would not be enough.

The President has said for a modest debt today, we can prohibit a $26 trillion catastrophe 37 years from now by giving younger Americans a choice to do what we do as Members of Congress in the Thrift Savings Plan. We have the opportunity to empower their future and enhance their security.

Yes, there are disciplines we should apply. Yes, there is math that we should run. But facts are stubborn. Had we done as a country, with the surpluses we received, what the President wants to offer voluntarily to younger Americans, we would not be here today.

Facts are stubborn, and pictures are worth a thousand words.

I hope I am here in 2042, and I pray to God that Elizabeth and Jack will be here, too, and they are going to sit in my den in front of my fireplace, and we are going to talk. I am not going to tell them that 37 years before when I had a chance to make their future brighter I said we really did not have a crisis, we really did not need to do a thing.

George W. Bush is a great President for many reasons but, most importantly, because he is willing to look a problem square in the eye regardless of size and make suggestions and solutions for its correction. We owe the American people no less, and I owe Elizabeth Sutton Isakson and Jack Hardy Isakson no less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Madam President, I do not know if this is the first time the junior Senator from Georgia has spoken in the Senate, but I am sure it is one of the first times, if not the first time. I just want to tell him I thought what a persuasive argument the junior Senator from Georgia made that we need to not ignore this problem but tackle it for our children and grandchildren.

Mr. ISAKSON. I thank the leader.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, first, I would like to say straight out that I thought the President gave a great speech yesterday. I thought it

was forward looking, positive, and I think he issued a challenge to Members of Congress. It is a challenge we should face up front.

I rise today to talk about the President's State of the Union Address. The President last night reminded us of our freedom and liberty, our personal responsibilities, and solemn obligations. Freedom and liberty—no two words have given more to those blessed by them and damned more those who have taken them away.

The President's address reminded us that the march of freedom continues throughout the world. The success of the elections in Afghanistan, Iraq, Palestine, and the Ukraine clearly demonstrate a desire for liberty and democracy, a desire that was revealed to the world this week by an ink-stained finger, an understated expression of mankind's inalienable right.

Tyranny has no place in the world. We must oppose it with great determination and diligence wherever it appears. The election in Iraq in particular showed that people are willing to risk their lives to bear the privilege of freedom and the mark of democracy.

Recent success does not mean our obligations are fulfilled. As the President articulated, our Nation must continue to root out tyranny wherever it resides. We must oppose extremism, whether it be religious or ideological. We must assist those who are in need, those who live in desperate poverty, and those who are suffering from deplorable disease and epidemic.

Sadly, freedom comes at great expense. We have witnessed the cost of liberty, first at the birth of our Nation and later at the salvation of our Union. Today we see the price of liberty as freedom-fearing terrorists lash out against the builders of democracy.

The sacrifice of our men and women in uniform has been great. I cannot fully express my admiration and respect for those willing to serve our Nation, protect our country, and defeat those seeking the return of oppression. Their commitment to freedom is an inspiration to me, to the people of Colorado, and to the Nation. To these men and women, we owe our solemn obligation, our pledge to not waste the blessings their sacrifice has bestowed.

The President also spoke of the future, our obligations to elderly generations, and the duties owed to our youngest children. The President has chosen reality over popularity and will address the growing threat of insolvency, ensuring stability for all Americans.

Those resistant to the reality of a losing system claim that Social Security is not broken. They want to bury their heads in the sand and pretend the looming bankruptcy will go away. But the reality is this: In three short years, the baby boomers will be eligible for Social Security. At that point, the balance in the Social Security trust fund will begin its permanent decline. Even if President Bush were to sign the necessary reforms into law this year, it would most likely take at least a couple years to implement. If we do not act, we will shortchange the American people. I believe, that the time to act is now.

Social Security was created in 1935 under President Franklin Delano Roosevelt. At that time, the average life expectancy was 63 years of age, most women did not work outside the home, most adult males did not live to reach retirement age, and payroll taxes were only 2 percent on the first $3,000 of income.

Today the average life expectancy is 77 years, men and women work outside the home, both are likely to reach retirement age, and the payroll taxes are 12.4 percent on the first $90,000 of income. The American people deserve a system that has been modernized to reflect 21st Century realities.

The President is not using scare tactics—Social Security is safe for today's seniors. Let me repeat that. Social Security is safe for today's seniors. But it is in serious jeopardy for our children and our grandchildren. Social Security is a pay-as-you-go system with today's workers paying to support today's retirees. But each year there are more retirees receiving benefits and fewer workers to support them. In the 1950s, there were about 16 workers for every beneficiary. Today there are about three workers for every retiree, and eventually, there will be only two. Social Security's source of income is rapidly disappearing. If the program continues under current law, younger workers will face a 26-percent cut in benefits when they retire. Congress must act now to save this valuable program for future generations.

In the 1990s, President Clinton advocated reforming Social Security. In his 1999 State of the Union Address, President Clinton stated:

> First, and above all, we must save Social Security for the 21st century.

At the time, Democrats wholeheartedly agreed. The current Democratic leader said on Fox News Sunday on February 14, 1999:

> Most of us have no problems with taking a small amount of Social Security proceeds and putting it into the private sector.

Many other Democrats agreed. The current Democratic whip said:

> Due to the increasing number of baby boomers reaching retirement age, Social Security will be unable to pay out full benefits. . . . But the sooner Congress acts to avert this crisis, the easier and less painful it will be.

But Democrats are now trying to convince Americans there is not a problem, that reform is not necessary, and this simply is not true.

I worked with President Clinton and Senate Democrats to try to reform the Social Security system in the 1990s. I am now pledging to work with President Bush in making sure the American people have a long-term secure Social Security system. Social Security reform is a bipartisan issue.

Some groups oppose the President's push to reform Social Security by claiming that personal retirement accounts are not a necessary addition to the Social Security system. One such group is the American Association of Retired Persons, commonly referred to as the AARP. On January 3, 2005, they announced they were beginning an advertising campaign in 59 newspapers across the country, and these advertisements are intended to warn the public that basing the Social Security Program on private investments poses serious risks. I would agree with the AARP if this were, in fact, true. However, to my knowledge, that proposal has never been on the table. Rather, the President has discussed adding the option for younger workers to build a nest egg in a personal account.

The AARP offers its employees a generous benefits package, including a pension and 401(k) plan similar to the very option they now oppose. Many other employers offer these plans to their employees as well. How can it be that personal retirement accounts, such as 401(k)s, are good enough for the AARP, Members of Congress, and a good portion of the country, but, according to the AARP and the Democrats, they are not good enough for all Americans?

Some reform opponents have suggested that simply raising or eliminating the taxable income cap of $90,000 will fix the problem completely. By doing this, we would only postpone Social Security trust fund deficits by 6 years, and this is why: Under the current structure, the more you pay into Social Security, the more you get back upon retirement.

President Bush has said that benefits for current beneficiaries are not to be cut or are in any way at risk. The President would like to offer the option, not requirement, for workers to invest a portion of their own paycheck into a personal retirement account. This account would travel with workers from job to job as opposed to a 401(k) plan that is with one single employer.

It is possible that this personal account could even be passed on to future generations. This option would benefit all Americans, and give them more choices for their retirement. If reforms take place soon, retirees could begin retirement with a nest egg far larger than what Social Security can offer. It would be irresponsible for any elected official, regardless of party, to oppose reform.

As we head into this debate, I hope that everyone will enter with an open mind in forging new ideas on how to solve this very pressing problem. Social Security cannot be fixed with minor alterations. Social Security is a valuable, successful program from which our country's retired citizens benefit. However, unless Congress fulfills its duty and obligations to protect its solvency, it will not be around for my children's retirement—or yours.

Addressing Social Security is not divisive—it is responsible.

The 109th Congress will be long on debate, but we must all work together to make sure that it is also filled with accomplishments for the American people. I look forward to working with my colleagues in the Senate and the House as we pursue a policy of hope and empowerment.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from South Carolina.

Mr. DEMINT. Mr. President, I rise today to express my strong support for the bold and forward-thinking agenda that President Bush laid out for us last night.

The President was right in saying that the state of our Union is ''confident and strong.'' We have been blessed with a healthy, growing economy, with more Americans going back to work, and with our Nation acting as a positive force for good in the world.

Our economy is bouncing back, but we all know that more must be done to make it stronger and more productive. The President understands that by making our economy more flexible, more innovative, and more competitive, we will keep America the economic leader of the world.

The President was very clear about the need for Congress to help reduce wasteful spending and burdensome regulations, make tax relief permanent, eliminate junk lawsuits, and lower health care costs. But I was most impressed with the President's willingness to tackle tax reform.

The President accurately pointed out that year after year, Americans are burdened by an archaic, incoherent Federal Tax Code. We all know that the Federal Tax Code is the No. 1 job killer in America, but very few of us seem willing to stand up and push for meaningful reform.

Earlier this year, the President established a bipartisan panel to study the Tax Code and to make recommendations. This is something I have been calling for for many years. When their recommendations are delivered, I stand ready to work with the President to give this Nation a Tax Code that is progrowth, easy to understand, and fair to everyone. If we want to secure the best jobs in the future, we must make America the best place in the world to do business. The President understands this, and I am hopeful that this body can make strides toward accomplishing that important goal.

Another goal the President put forward last night that is very close to my heart is the challenge of permanently fixing Social Security. I thought the President was clear about the financial problems facing the program. He pointed out what we all know but often fail to acknowledge—that Social Security will begin paying out more than it collects in just 13 years.

The current program does not have enough money to pay for all its promised benefits. Some may argue with this and say the trust fund will keep Social Security afloat until 2042, but I challenge them to show me the money, show me how they plan to make good on all of those IOUs. Our future seniors will not accept IOUs instead of real money, nor should they.

It is not enough to just oppose and obstruct one solution. The critics of reform must put forward their own plan. So far, we have not seen one.

I am very concerned about the misinformation surrounding this debate, and that is why I am introducing legislation today to require the Social Security Administration to update the information it gives American workers. The current statement entitled ''Your Social Security Statement'' fails to communicate the serious problems facing Social Security. The current statement reads like a passbook savings account and leads workers to believe that the Government is actually saving their money. It is not. The statement should tell workers that their combined employee and employer taxes total 12.4 percent of their wages throughout their life. It should tell them that none of that money is saved for their retirement. And it should tell them that each year that goes by, retirees get a lower and lower rate of return.

I thought the President's argument last night for the personal savings account was very accurate. He said:

> Your money will grow, over time, at a greater rate than anything the current system can deliver, and your account will provide money for retirement over and above the check you will receive from Social Security. In addition, you will be able to pass along the money that accumulates in your personal account, if you wish, to your children and grandchildren. And best of all, the money in the account is yours, and the Government can never take it away.

That last point is the most important part of this debate. Reforming Social Security with personal accounts is about forcing the Government to start saving workers' money for the first time in history so that no President, no Congress, can ever again spend it on other programs.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF ALBERTO R. GONZALES TO BE ATTORNEY GENERAL OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session for the consideration of Executive Calendar No. 8, which the clerk will report.

The legislative clerk read the nomination of Alberto R. Gonzales, of Texas, to be Attorney General.

The PRESIDING OFFICER. Under the previous order, there will be 8 hours of debate equally divided between the Senator from Pennsylvania, Mr. SPECTER, and the Senator from Vermont, Mr. LEAHY, or their designees.

Under the previous order, time shall alternate every 30 minutes between the majority and minority for the first 2 hours, with the first 30 minutes under the control of the majority.

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I rise to support a man of remarkable achievement, Judge Alberto Gonzales, to be the next Attorney General of the United States.

Judge Gonzales is proof that in America, there are no artificial barriers to success. A man or a woman can climb to any height that his or her talents can take them. For Judge Gonzales, that is a very high altitude indeed. And luckily for his country, he is not finished climbing yet.

Judge Gonzales is quite literally from humble beginnings. He was raised in the town of Humble, with seven siblings. The eight of them, and their mom and dad, lived in a small two-bedroom house that Judge Gonzales's father and uncles built from scratch.

Judge Gonzales's parents were both migrant workers of Mexican descent. They met while picking crops in the fields of south Texas. Both spoke little English, and had only 8 years of schooling between them. The house they raised Al in had no hot water or telephone.

But by teaching their gifted young son the value of perseverance and hard work, Pablo and Maria Gonzales raised a man who has been one of the most trusted advisors to the President of the United States.

Judge Gonzales got his first job when he was 12. He sold Cokes at Rice University football games. No one in his family had ever gone to college, and at that age Al didn't expect to either. When each football game ended, and the Rice students streamed out of the gates and back to their dorms, Al wondered about the world of education they were going back to.

He graduated from MacArthur Senior High School, a Houston public school, after challenging himself in college preparatory classes. He enlisted in the Air Force and was stationed north of the Arctic Circle at Fort Yukon, AK.

Those North Pole winds must have been a lot colder than anything he ever felt in Texas. It was probably a shock to young Al.

At the urging of his officers, Judge Gonzales applied and was accepted into the United States Air Force Academy. Our armed services are superb at finding and grooming talented Americans, and they succeeded again by pushing Judge Gonzales to the fore.

And then, in one of the moments where life begins to come full circle, Al transferred from the Air Force Academy to the very prestigious Rice University—the same Rice University where he had sold Cokes at football games as a boy. He fulfilled his 10-year dream of attending his hometown's preeminent institution.

He excelled at Rice and immediately entered Harvard Law School. Before the ink on his Harvard Law diploma was dry, he was recruited by the number-one law firm in Houston, one of the most esteemed firms in the Nation.

Judge Gonzales built himself from very modest beginnings to become one of the most distinguished attorneys in the country. A lot of us here are lawyers. We can tell the good ones from the mediocre ones, and Judge Gonzales is one of the best.

He could have stayed a highly paid Houston attorney. But he has answered the call to serve his country. Not just once, but again and again.

First he served as General Counsel to Governor Bush in Texas. Then the Governor appointed him as Texas's Secretary of State. Next, he was selected as a Justice of the Supreme Court of Texas. Then, he was asked to serve as Counsel to the President. Now he has been selected to be the 80th Attorney General of the United States—the first Hispanic-American to be the Nation's top law-enforcement officer.

But some in this body have made it clear they don't care about Judge Gonzales's exemplary record of service.

I want to rebut some galling allegations a few of my Democratic friends have made about Judge Gonzales. For instance, that he supports torture. I even saw one outrageous ad that juxtaposed Judge Gonzales's face with a picture of prisoner abuse at Abu Ghraib. Attempts to tar Judge Gonzales with this dirty brush are despicable.

Let me be clear: Judge Gonzales, President Bush, and the administration have never supported torture or the inhumane treatment of terrorist prisoners. Never.

Anybody who tries to tie Judge Gonzales to the depraved acts of a few twisted renegades ought to be ashamed.

Judge Gonzales has stated repeatedly that he does not support torture. He has stated repeatedly that no matter the answer to the question of whether al-Qaida terrorists deserve the privileges accorded to lawful combatants under the Geneva Conventions, it is the policy of this President that every prisoner will be treated humanely. And he has been repeating this long before he was the Attorney General nominee.

I am very disappointed that some of my colleagues refuse to acknowledge the frightening situation that President Bush faced after September 11. That a determined gang of terrorists could so easily kill 3,000 Americans. That many more terrorist cells may be poised to strike. Were our schools, our sports stadiums, our city halls safe? Even the postal system couldn't be trusted.

In that environment, Judge Gonzales aggressively explored every possible lawful means of gaining information about the terrorists, and their plots to murder innocent Americans. He was absolutely right to do so. He was fighting on behalf of his client, the United States of America. With the lives of his countrymen at stake, any less would have been a dereliction of duty.

Judge Gonzales doesn't owe anybody an apology for his record. But some owe him an apology, for rimracking him with phony allegations instead of honoring his willingness to serve his country.

Some have also criticized Judge Gonzales for supposedly not being sufficiently forthcoming with answers to questions from the Judiciary Committee. This is demonstrably untrue: Judge Gonzales has been extremely cooperative, and he has been asked far more questions than other Attorney General nominees in recent memory.

Judge Gonzales answered every question put to him at the committee's hearing, and then received hundreds of written questions afterward. Within days, he returned to the committee over 440 responses. I repeat: Within days, he returned to the committee over 440 responses. Then the committee asked Judge Gonzales even more questions, despite the fact that the deadline for questions imposed by the chairman had already passed. And still, Judge Gonzales graciously provided an additional 54 responses to every question that the Judiciary Committee could think of.

By contrast, Attorney General Janet Reno got only 35 questions from the Judiciary Committee in 1993. And records show she responded a whopping 9 months after she was confirmed. Let me repeat that. Janet Reno got 35 questions from the Judiciary Committee in 1993, and records show she responded 9 months after she was confirmed. I wish I had that plan when it came time to pay my bills.

Even the New York Times made the right call when it admitted Judge Gonzales has been very forthcoming. From January 19 of this year:

> His written responses totalling more than 200 pages on torture and other questions . . . offered one of the administration's most expansive statements of its position on a variety of issues.

That is the New York Times, not exactly a bastion of conservative or Republican supporters.

The position of the Attorney General, as we know, is a position of very high trust. After the President, he is the supreme law enforcement officer in the land. Like the President, he is charged with defending the Constitution. The office is reserved for those of great character. I don't have any doubt that Alberto Gonzales will fight to protect this country from terrorists with every bit of his power, while guarding the civil rights of every single American.

In short, he is supremely qualified to be the next Attorney General of the United States. I look forward to giving him my vote, and I am confident a vast majority of the Senate will, as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I commend the Senator from Kentucky for his excellent remarks, which I heard in my office, and the wrap-up I heard here. I congratulate all who have come forward in support of Judge Gonzales for their excellent statements and, I am prompted to say, in his defense.

It is a sad situation that a man of his integrity, of his accomplishments, of his skills, of his background, has to be defended in the Senate. This discussion we have had in committee and in the Senate is further evidence that the system of bringing not just Attorney General nominees but judicial nominees and other nominees—Secretary of State—has some serious problems. We have allowed the partisan politics to enter into some of these debates and discussions when we should be looking at the qualifications of the person, the integrity of the person, the skills of the person, the trustworthiness of the person, and whether they can do and execute the jobs faithfully.

Judge Gonzales has shown throughout his career, whether in his career as a lawyer, whether in his career as a counsel to the Governor, whether in his career as supreme court justice and elected official in the State of Texas, secretary of state, he has shown the highest degree of integrity and the skills necessary to do the job. He has proven to be trustworthy when given authority, taking that authority seriously and handling it with great responsibility.

I personally have worked with him on many occasions, and in some very difficult situations, and I have always found him to be completely forthright, brutally honest—in some cases telling me things I did not want to hear but always forthright, always honest, sincere, serious. This is a serious man who takes the responsibilities that have been given to him as a great privilege and a great honor which he holds very carefully and gently in his hands.

There is a wonderful spirit in this man of understanding the positions he has held, certainly the position he holds now as Counsel to the President, and the awesome responsibility that

comes with that. He has never given me any indication in any dealings I have had with him that he would do anything but faithfully execute his duties to the President and to the country, first and foremost.

Knowing the man—he is not a friend; I don't know him socially—having dealt with him on many occasions in my time in the Senate, to see this man being portrayed as someone who would condone torture in spite of all the statements to the contrary, someone who would not faithfully execute the laws of this country despite endorsements from every law enforcement agency there is out there—not just endorsements but glowing endorsements from law enforcement agencies and prosecutors—to see this man's integrity questioned, his forthrightness questioned, is a sad commentary on the questioners because this man's history, this man's record of service for the State of Texas and this Government is spectacular, as was Dr. Rice's service.

The sad part of this is that ultimately it is less about the individual and more about the politics. More and more we see that. We saw that last session of Congress with judicial nominations where it was more about the politics, the partisanship, than about the individual. Looking from afar and observing the political scene, as many people do in America, we see that, and that is just part of the game. Everyone is making their points when they have the opportunity and trying to drive the message. Maybe I can understand that a few months before an election, if you want to drive a pledge and position yourself on the wedge issues.

It is the first week of February. It is 3 months after the last election. Don't you think we can take a little time around here to treat people decently, people who serve this country well and have been role models and examples? Dr. Rice, Judge Gonzales—what two better stories in America of people who have achieved, from very humble beginnings, achieved at the highest level, and then to be treated as partisan pawns in this political process barely 3 months after an election. The Senate deserves better than that. More importantly, these are individuals. We are not debating a bill. This is not a piece of paper with words on it. If we say this language is bad or that language is bad, that is one thing. But to impugn the character of individuals, when you go after someone on a personal basis, when you say things and accuse people of things that are not supported by any of the evidence out there, and you do so principally not because you believe this person actually holds those characteristics but you do so for a grander political motivation, I argue that is something the Senate should not condone, and hopefully today we will see the votes in the Senate in a very strong and overwhelming bipartisan fashion.

There are a lot of people I commend on the other side of the aisle who have stood and spoken of their own experiences with this man. They have spoken about their review of the record and the facts and have given this extremely qualified nominee their support. It shows there are some on that side of the aisle who still are positioning themselves as if we are in the last week of October of last year instead of beyond that and moving on to try to do something that is positive for the future of our country.

I would argue Alberto Gonzales is going to be a great, positive contribution to the war on terror, to the crime-fighting obligation that he will have, to the integrity of our laws in this country. There is no question in my mind he will faithfully uphold the Constitution of the United States, and he will serve with great honor and distinction. It is my pleasure to speak in support of him.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, as I understand it, there are several minutes left for the majority at this particular moment. I inquire if I could begin my remarks—I think it has been agreed that I will be the first speaker on the minority side—and reserve whatever time the majority has for some point later so they do not lose their time. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, I rise, late this morning, to speak on the nomination of Alberto Gonzales to serve as the Attorney General of the United States.

I would, as an initial matter, note that I know one of our colleagues came to the floor yesterday and spoke some words in Spanish in support of this nomination. And as someone who speaks Spanish, I was urged by some of my colleagues to do the same. I would not want to complicate the life of our reporters here. It is hard enough to understand us in English from time to time, and doing so in Spanish might make things more difficult.

I take great pride in the fact that I lived in a Spanish-speaking country as a Peace Corps volunteer, and that I have been a long-time member of the Senate subcommittee that concerns itself with Latin America. I understand this nomination is certainly a matter of ethnic pride to many. I understand that. But I would further suggest that to consider this nomination as only or even principally as a matter of ethnic pride does a disservice to the Latino, the Hispanic community. As far as I can tell, members of that community are no different than people throughout our great Nation. They want to know not only who you are and what you are, but also what you think and what you believe in. They want to know if a person nominated to be this Nation's chief law enforcement officer will uphold the rule of law.

The outcome of this nomination at this hour is not in doubt. It appears quite likely, if not altogether certain, that Mr. Gonzales will be confirmed by the Senate of the United States as our country's next Attorney General. So what I am about to say is of little, if any, consequence to the ultimate outcome of this particular nomination. If, in fact, this nominee is confirmed, I hope what I have to say might have some impact on his thinking as he assumes this office.

I have asked for time to participate in this debate because of the important questions that this nomination raises, for not only this body but for our Nation. I thank the two leaders for allotting time for a full debate on these questions.

I am going to oppose this nomination. I say that with deep regret. Like all or nearly all of my colleagues, I had very high hopes for this nomination when it was first announced. When Mr. Gonzales was nominated for this position several weeks ago, I didn't know a single Member who expressed any intention to vote against this nominee. That is certainly the case for this Senator. However, I also said at the time that I would reserve an ultimate decision until after the nomination was considered by the Judiciary Committee and put before the full Senate.

In the interim, the committee chairman and ranking member have done a tremendous job of holding a careful, thorough, and substantive set of hearings. They have given members of the committee every opportunity to ask questions of the nominee. Just as importantly, if not more, they have given every opportunity to the nominee to answer those questions fully.

As many of my colleagues may know, particularly those with whom I have served over the past almost quarter of a century, I have long adhered to the practice of according Presidents great deference in their nominations of term-limited appointees. Those who campaign for and win the highest office in our land deserve to name their team to the President's Cabinet. Accordingly, my standard of review for nominations such as this is different than it is for lifetime appointments.

There are two basic questions that must be answered. First, does the nominee have the personal qualities required to discharge the duties of the office to which he or she has been nominated? And secondly, has the nominee demonstrated an understanding of the duties that he or she will be required to discharge if confirmed?

Based on that standard of review and only that standard, I have supported overwhelmingly a number of Cabinet appointees during the quarter of a century I have served in this body. That

includes nominees of this President, including the current Attorney General, as many of my colleagues may recall 4 years ago. It also includes nominees proposed by Presidents and opposed by a majority of members of my own party, including, in at least one instance, a nominee opposed by a majority of the Senate. But I have, on rare occasions, less than five in my 24 years here, through all five Presidents during that time, opposed only a handful of Cabinet nominees, including nominees supported by the majority of Members of the Senate and a majority of members of my own party.

There is no question that this nominee possesses a number of admirable personal qualities. He has demonstrated considerable intellectual ability. He is an experienced and accomplished attorney. He has by all indications been a responsible member of his profession. And he has demonstrated commitment to public service. Like our colleagues, I have been deeply impressed with his proud family history.

But this nomination is not simply about Alberto Gonzales's impressive personal qualities. If it were, then he would be unanimously confirmed. What is at stake is whether he has demonstrated to the Senate that he will discharge the duties of the office to which he has been nominated, specifically whether he will enforce the Constitution and laws of the United States and uphold the values upon which those laws are based.

Regrettably and disturbingly, in my view, Alberto Gonzales has fallen short of meeting this most basic and fundamental standard. Let me explain why I take this position for two reasons: One, because in a nation founded on the principle of human freedom and dignity, he has endorsed, unfortunately, the position that torture can be permissible. And two, in a nation dedicated to the proposition that all are equal and none is above the law, he has suggested that the President of the United States, acting as Commander in Chief, has the right to act in violation of the laws and treaties prohibiting torture and may authorize subordinates to do the same. I will address briefly each of these issues in turn.

The issue of torture is relatively straightforward. Is it acceptable for the United States of America ever to effect or permit the torture or cruel, inhuman, degrading treatment of human beings? The Constitution clearly says no. The eighth amendment explicitly prohibits ''cruel and unusual punishments.'' The Geneva Conventions say no. They prohibit the torture and abuse of detainees and prisoners of war.

The Universal Declaration of Human Rights says no. Article 5 states:

> No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The International Convention Against Torture also says no to torture. This document, signed by President Reagan, supported by former President Bush, and approved by the Senate Foreign Relations Committee under Chairman Helms with a unanimous committee decision, says:

> No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.

Lastly, the Army Field Manual says no to torture as well. This manual contains the knowledge, insight, and wisdom gathered by American soldiers over decades of hard experience.

It says:

> U.S. policy expressly prohibit[s] acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or to aid interrogation.

So this document, relied on for decades by U.S. military personnel in the theater of war to protect their lives and to do their duty, expressly prohibits torture. Why? Because, to again quote from the Army Field Manual:

> The use of torture is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. . . . It also may place U.S. and allied personnel in enemy hands at greater risk.

From the very earliest days of our Republic, the right to be free from torture has been a fundamental value of our Nation. Other values and rights have evolved or been won by the deprived and dispossessed: the emancipation of slaves, civil and voting rights for racial and ethnic minorities, equal rights for women, the right of privacy, just to name a few. But the right to be free from torture or similar treatment has never been in doubt, has never been seriously debated in our Nation. It has always been considered intrinsic to a nation such as ours, founded, as it is, upon the belief that all people are endowed with certain inalienable rights.

Yet, unfortunately, this nominee has in crucial aspects stood against the overwhelming and unequivocal weight of precedent and principle. He has instead stood on the side of policies that are in direct conflict with the laws, treaties, and military practices that have long guided our Nation and its citizenry. Moreover, the record strongly suggests that he, in fact, helped shape those policies to the great detriment of our Nation's moral standing in the world.

Indeed, as the White House Counsel, he is one of the chief architects of those policies. Let me review the record.

In January of 2002, Mr. Gonzales wrote a memorandum to the President of the United States regarding the applicability of the Geneva Conventions to the conflict in Afghanistan. He concedes in the memo that:

> Since the Geneva Conventions were concluded in 1949, the United States has never denied their applicability to either the United States or opposing forces engaged in armed conflict, despite several opportunities to do so.

But then Mr. Gonzales argues that the war on terror presents a ''new paradigm [that] renders obsolete Geneva's strict limitations on questioning of enemy prisoners.'' He urged a blanket exclusion of the Afghanistan war from the Geneva Conventions.

This position was strenuously opposed by Secretary of State Colin Powell. Powell pointed out:

> It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the rule of law for our troops, both in the specific conflict and in general.

He goes on to say:

> It will [also] undermine public support among critical allies, making military cooperation far more difficult to sustain.

Secretary Powell's legal adviser added that Mr. Gonzales's view that Geneva did not apply to Afghanistan was inconsistent with the plain language of the treaty, the unbroken practice of the United States over the previous half century, the practice of all other parties to the Conventions, and the terms of the U.N. Security Council resolution authorizing the intervention in Afghanistan.

Ultimately, in February 2002, President Bush ordered that all detainees captured by U.S. forces be treated in ''a manner consistent with'' the Geneva Conventions. But it has been pointed out that the treatment of detainees at places such as Abu Ghraib and Guantanamo raised questions about whether this order was effective in actually according detainees the protections of the Geneva Conventions.

What is most troubling to this Senator is that Mr. Gonzales argued for a view of the Geneva Conventions that was inconsistent with American law, American values, and America's self-interests.

Nor was this an isolated event. This administration's policy on torture was largely established in August of 2002. At that time, a memorandum regarding standards of conduct of interrogations was prepared at Mr. Gonzales's request by the Justice Department Office of Legal Counsel. This memorandum was accepted by the administration as policy until December 2004, when it was repudiated, at least in part, by the Justice Department on the eve of Mr. Gonzales's nomination hearing. The memorandum is 50 pages long. I will not dwell on it. Others among our colleagues have already thoroughly discussed it. I will only touch on two aspects of it.

One is its novel and absurdly narrow definition of torture. The only conduct it recognizes as torture is where the interrogator has the precise objective of inflicting ''physical pain . . . equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or death.'' Any other conduct implicitly would not, as defined by this document, constitute torture—and thus would be allowed.

Mr. President, this is a truly stunning and offensive reading of the law, not to mention plain English. It twists and contorts the meaning of the word ''torture''—so much so that the word is drained of any meaning whatsoever.

It would allow all manner of mistreatment, including the acts of brutality and degradation committed by Americans against Iraqis in places like Abu Ghraib prison. Incredibly, it would even excuse the beatings, rapes, burnings, and deprivations of food and water perpetrated at the behest of Saddam Hussein himself.

A second aspect of this memorandum that deserves mention is its discussion of the powers of the President of the United States when acting as Commander in Chief. The memorandum says that the criminal prohibition against torture ''does not apply to the President's detention and interrogation of enemy combatants pursuant to its Commander in Chief authority.'' Under this reasoning, executive branch officials can escape prosecution for torture if ''they were carrying out the President's Commander in Chief powers.''

Here again, this legal reasoning is stunning in its implications. It suggests that an American acting on behalf of the United States of America can commit heinous acts of torture without the slightest fear of prosecution. All he or she needs to do to avoid sanction is to show that he or she was ''just following orders.'' Whether the law prohibits torture is of no consequence. The President and anyone acting under his authority are in effect above the law.

This memorandum has been rightly condemned by legal experts. One is Harold Koh, a professor of law at Yale Law School. He served in the Reagan Justice Department and the Clinton State Department. In testimony before the Judiciary Committee last month, he called the August 2002 memorandum ''perhaps the most clearly erroneous legal opinion that I have ever read,'' and ''a stain upon our law and our national reputation.''

Yet while condemned as beyond the pale of American law and American values, these ideas were accepted and even embraced by the nominee to become the Attorney General of the United States of America. There is no evidence in the record that he even questioned them, much less disagreed with them. Apparently, he had them shared with the Department of Defense.

At his confirmation hearing, Senator LEAHY asked Mr. Gonzales whether he agreed with the memorandum's legal reasoning on the issue of torture. Mr. Gonzales replied, ''I don't have a disagreement with its conclusions.''

Our colleague, Senator KOHL from Wisconsin, asked if the nominee agreed with Attorney General Ashcroft's statement that he does not believe in torture because it doesn't produce anything of value. The nominee replied, ''I don't have a way of reaching a conclusion of that.''

Don't have a way of reaching a conclusion? Mr. President, that is an astounding admission for someone seeking to become the Nation's top law enforcement officer. If he cannot reach a conclusion about the illegality or immorality of torture, what can he reach a conclusion about? What other legal principles are open to similar legal evisceration and repeal? What does it say about our Nation's commitment to the rule of law that this nominee will not say torture is against the law? What does it say about our Nation's commitment to equal justice under the law that this nominee would have the President and his subordinates be above the law?

How do we explain this to the citizenry of our Nation, to the citizenry of other nations, particularly our allies, and most especially to the citizens of tomorrow, our young people who will inherit this country as we leave it to them? Will we tell them that torture is wrong—unless the President orders it? Will we teach them that America stands for life, liberty, and the pursuit of happiness—depending upon who you are?

Almost 60 years ago, this very day, the first allied forces liberated the condemned people of Auschwitz. On that day, the full horror of the Nazi genocide was laid bare, and all doubt about it was laid to rest.

Within weeks of that event, my father and a group of other attorneys in this country were on a plane to a place called Nuremberg, Germany. There, he, along with others from our allies, began what would perhaps be the most formative experience of my father's professional life at that time: serving as executive trial counsel at the trials of Nazi war criminals.

At that time, there were loud calls against trying the Nazi leaders. Many called not for due process of law, but for summary executions. In fact, Winston Churchill, a person we revered, who had great values, strongly suggested that summary executions would be the way to deal with the people responsible for the incineration of 6 million Jews and 5 million other civilians, not to mention the millions of combatants who lost their lives as a result of Nazi terror.

Yet the United States stood up for something different 60 years ago, in the summer of 1945 through the fall of 1946. As members of the allied powers, we insisted that the rule of law, rather than the rule of the mob, would rule. Even these most despicable and depraved human beings were given an opportunity to retain counsel and to testify in their own defense.

We were different. It did not depend on who the enemy was. It depended on what we stood for. If we begin to tailor our values and principles based on who our adversaries are, what do these laws mean? What do these bedrock principles stand for, if we can tailor them based on who we look across a battle line at? You cannot do that if you believe in these principles.

At that moment in history, the world learned something very important about the United States of America. It learned that this Nation would not tailor its eternal principles to the conflict of the moment. It learned that, as far as the United States of America is concerned, even the mightiest cannot escape the long arm of justice. And it learned that our Nation will recognize the words ''I was just following orders'' for what they really are—a cowardly excuse, which has no place in a nation of free men and women.

Mr. President, as I said, the outcome of this nomination is in little doubt at this hour. I understand that. My argument is not going to persuade anybody to vote differently. I want to be on the record saying that there have been only a handful—two or three cases in 24 years—where I have stood in the Chamber to oppose a Cabinet nominee. I supported and voted for the nominations of John Ashcroft and John Tower. My colleagues who served with me know that I generally believe that Presidents deserve to have their Cabinets—except in rare circumstances.

While I admire the personal story of this nominee, when he walks away from these critical principles, I cannot in good conscience give my vote to him to be Attorney General of the United States—the chief law enforcer of our country—when I know how important the rule of law is to this country, its history, and our reputation.

As I said earlier, the outcome of the nomination is not in doubt. I do not expect that the nominee in question is paying attention to these proceedings or what I have to say. But I hope Mr. Gonzales will pay heed to the lessons of history, if not to this Senator. In his second State of the Union Address, Abraham Lincoln said that in giving or denying freedom to slaves, ''We shall nobly save or meanly lose the last, best hope of earth.''

The issue then was how our Nation treats the enslaved. The issue today is, in some respects, no less profound: how our Nation treats its enemies and captives, including those in places such as Abu Ghraib prison and Guantanamo Bay.

By treating them according to our standards, not theirs—our standards, not theirs—we feed the flame of liberty and justice that has rightly led our Nation on its journey over these past two and a quarter centuries.

I strongly oppose this nomination, and I hope the President will come up with a better choice.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Illinois.

Mr. OBAMA. Mr. President, a few days ago, the world watched as the seeds of democracy began to take root in Iraq. As a result of the sheer courage of the Iraqi people and the untold sacrifices of American soldiers, the success of the elections showed just how

far people will go to achieve self-government and rule of law.

As Americans, we can take enormous pride in the fact that this kind of courage has been inspired by our own struggle for freedom, by the tradition of democratic law secured by our forefathers and enshrined in our Constitution. It is a tradition that says all men are created equal under the law and that no one is above it.

That is why even within the executive branch there is an office dedicated to enforcing the law of the land and applying it to people and to Presidents alike.

In this sense, the Attorney General is not like the other Cabinet posts. Unlike the Secretary of State, who is the public face of the President's foreign policy, or the Secretary of Education, whose job it is to carry out the President's education policy, the Attorney General's job is not just to enforce the President's laws, it is to tell the President what the law is. The job is not simply to facilitate the President's power, it is to speak truth to that power as well.

The job is to protect and defend the laws of freedoms for which so many have sacrificed so much.

The President is not the Attorney General's client; the people are. And so the true test of an Attorney General nominee is whether that person is ready to put the Constitution of the people before the political agenda of the President. As such, I cannot approach this nomination for Attorney General the same way I approached that of Secretary of State Rice or Veterans Affairs Secretary Nicholson or any other Cabinet position. The standard is simply higher.

Like the previous speaker, Senator DODD, I wanted to give Alberto Gonzales the benefit of the doubt when we began this process. His story is inspiring, especially for so many of us—like me—who shared in achieving the American dream. I have no question that as White House Counsel, he has served his President and his country to the best of his ability. But in my judgment, these positive qualities alone are not sufficient to warrant confirmation as the top law enforcement officer in the land.

I had hoped that during his hearings, Judge Gonzales would ease my concerns about some of the legal advice he gave to the President, and I had hoped he would prove that he has the ability to distance himself from his role as the President's lawyer so that he could perform his new role as the people's lawyer.

Unfortunately, rather than full explanations during these hearings, I heard equivocation. Rather than independence, I heard an unyielding insistence on protecting the President's prerogative.

I did not hear Judge Gonzales repudiate 2½ years of what appears to be official U.S. policy that has defined torture so narrowly that only organ failure and death would qualify, a policy that he himself appears to have helped develop and at least has condoned.

Imagine that, if the entire world accepted the definition contained in the Department of Justice memos, we can only imagine what atrocities might befall our American POWs. How in the world, without such basic constraints, would we feel about sending our sons and daughters off to war? How, if we are willing to rationalize torture through legalisms and semantics, can we claim to our children and the children of the world that America is different and represents a higher moral standard?

This policy is not just a moral failure, it is a violation of half a century of international law. Yet while Judge Gonzales's job was White House Counsel, he said nothing to that effect to the President of the United States. He did not show an ability to speak with responsible moral clarity then, and he has indicated that he still has no intention to speak such truths now.

During his recent testimony, he refused to refute a conclusion in the torture memo which stated that the President has the power to override our laws when acting as Commander in Chief. Think about this. The Nation's top law enforcement officer telling its most powerful citizen that if the situation warrants, the President can break the law from time to time.

The truth is, Mr. Gonzales has raised serious doubts about whether, given the choice between the Constitution and the President's political agenda, he would put our Constitution first. And that is why I simply cannot support his nomination for Attorney General.

I understand that Judge Gonzales will most likely be confirmed, and I look forward to working with him in that new role. But I also hope that once in office, he will take the lessons of this debate to heart.

Before serving in this distinguished body, I had the privilege of teaching law for 10 years at the University of Chicago. Among the brilliant minds to leave that institution for Government service was a former dean of the law school named Edward Levi, a man of impeccable integrity who was committed to the rule of law before politics.

Edward Levi was chosen by President Ford to serve as Attorney General in the wake of Watergate. The President courageously chose to appoint him not because Dean Levi was a yes man, not because he was a loyal political soldier, but so that he could restore the public's confidence in a badly damaged Justice Department, so that he could restore the public's trust and the ability of our leaders to follow the law.

While he has raised serious doubts about his ability to follow this example, Judge Gonzales can still choose to restore our trust. He can still choose to put the Constitution first. I hope for our country's sake that he will, and part of the reason I am speaking in this Chamber today is to suggest three steps that he can take upon assuming his role that would help restore that trust.

First, he can immediately repudiate the terror memos in question and ensure that the Department of Defense is not using any of its recommendations to craft interrogation policies.

Second, Judge Gonzales can restore the credibility of his former position as legal counsel by appointing an independent-minded, universally respected lawyer to the post.

And third, he can provide this Congress regular detailed reports on his efforts to live up to the President's stated zero tolerance policy with respect to torture.

Today we are engaged in a deadly global struggle for those who would intimidate, torture, and murder people for exercising the most basic freedoms. If we are to win this struggle and spread those freedoms, we must keep our own moral compass pointed in a true direction. The Attorney General is one figure charged with doing this, but to do it well, he must demonstrate a higher loyalty than just to the President. He must demonstrate a loyalty to the ideals that inspire a nation and, hopefully, the world.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise today in strong support of the President's nominee for Attorney General, Judge Alberto Gonzales. Judge Gonzales is a gentleman whom I have had the opportunity to work with in his role as counsel to President Bush. I have found him to be intelligent, steady, discreet, and honest in all our dealings. He is well qualified to be Attorney General. One should look at someone's record of performance. He served with skill and integrity as an effective counsel to the President. He has served as a distinguished jurist on the Supreme Court of Texas, as the 100th Secretary of State and chief elections officer in Texas and then as chief counsel to then-Governor Bush.

People say he has a life story that is inspirational and then dismiss all of that. I say to my colleagues, if one looks at someone's background, how they were raised, their life experiences tell a great deal about how a person is as an adult and as a leader with responsibility.

Alberto Gonzales was one of eight children, born to parents who were migrant workers. He was the first person to go to college in his family. He was a graduate of Rice University and Harvard Law School. He unequivocally has demonstrated that hard work and integrity will earn dividends no matter who one is in this country. He will not tolerate discrimination or limits on the ability of Americans to exercise their God-given rights or restrain any citizen in their equal opportunities and due process in the law.

He was raised in the way of achieving those goals and achievements in life that one aspires to regardless of one's race, ethnicity, or religious beliefs. With any nominee, it seems there have to be a number of accusations that Senators and others will level against them, but I believe Mr. Gonzales has clearly, forcefully, and consistently made clear his position on a number of issues. In fact, he is one of the most responsive nominees in recent history.

Judge Gonzales received hundreds of questions from 14 Senators who serve on the Judiciary Committee and one member not on that committee. Within 3 days, Judge Gonzales provided the committee with over 440 responses encompassing 221 single-spaced pages, in comparison to prior Attorney General nominees who received far fewer questions. Former Attorney General Janet Reno received only 35 questions for the record from five Senators. Records show that she responded to those questions 9 months after the Senate confirmed her.

Even the New York Times took note of Judge Gonzales's responsiveness. In a January 19, 2005, article, it stated:

His written responses totaling more than 200 pages on torture and other questions . . . offered one of the administration's most expansive statements of its positions on a variety of issues, particularly regarding laws and policies governing the CIA interrogation of terror suspects.

If this is an indication of how Judge Gonzales responds to his job as Attorney General, I am fully confident he will make an excellent and fair Attorney General.

Some will say he has not answered questions. Maybe they have not heard one of his many responses to this question about torture. But I think his statement in the Judiciary Committee that he ''denounces torture and if confirmed as Attorney General he will prosecute those who engage in torture,'' says it all. Maybe he can say it 12 more times and maybe 1 or 2 more Senators might understand it, but that is the record.

There is obviously a relatively small number of people who oppose this nomination, but there is a strong majority who support his nomination and from all sides, Republicans, Democrats, men and women from all ethnic groups. Henry Cisneros, former HUD Secretary under President Clinton, opined that he has voted only once for a Republican in his life and Judge Gonzales was that person. He felt confirming Judge Gonzales as Attorney General would be good for America because ''he understands the realities many Americans still confront in their lives.''

Mr. Cisneros goes so far as to say:

As an American of Latino heritage, I also want to convey the immense sense of pride that Latinos across the Nation feel because of Judge Gonzales's nomination . . . to one of the big four—State, Defense, Treasury and Justice. This is a major breakthrough for Latinos, especially since it is so important to have a person who understands the framework of legal rights for all Americans as Attorney General.

Lynne Liberato, a self-proclaimed partisan Democrat and former president of the State Bar of Texas and the Houston Bar Association, stated the first good result of President Bush's reelection was that he nominated Alberto Gonzales to become Attorney General and that the only downside is he will not be nominated to the U.S. Supreme Court. She goes on to opine that she can say with complete confidence he is a good man with a good heart.

Judge Gonzales's commitment to the betterment of America as a whole and its citizens has led to all sorts of accolades and awards. He has received many honors. In 2003, he was inducted into the Hispanic Scholarship Fund Alumni Hall of Fame. The United States-Mexico Chamber of Commerce honored him for the Good Neighbor Award. He received presidential awards from the U.S. Hispanic Chamber of Commerce and the League of United Latin American Citizens. We should strongly support the President's nomination of Judge Gonzales to become Attorney General of the United States. He is the embodiment of the American dream, a man of hard work, of legal sense and intellect, and that has lifted him to some of the highest positions in our Nation.

I like the fact that the President has nominated people who are good role models. I thought the fact that Dr. Rice had grown up in the segregated South. She applied and educated herself to obviously hold a very important position as Secretary of State—beyond her intellect and capabilities, it is a great life story that should be something for young people to be inspired by. The same with Judge Gonzales to become Attorney General of the United States.

We have other heroes, such as our new Senator from Florida, MEL MARTINEZ, a modern-day American dream coming from Castro's repressive Cuba. All Senators should aspire to be role models, and to the extent that people who have led the American dream, modern-day Horatio Algers stories should be an added plus to all their intellect, capabilities, and experiences.

I say to my colleagues: Adelante con Alberto Gonzales. Let's move forward with this nomination.

Mr. WARNER. Mr. President, I would like the record to reflect that I now have the privilege to speak to my colleagues with regard to the nomination of Alberto Gonzales to serve as U.S. Attorney General. I do so with a great sense of pride. I compliment our distinguished, strong President for having selected this outstanding American to serve in this exceedingly important position.

Article II of the Constitution provides that the President:

. . . shall nominate, and by and with Advice and Consent of the Senate, shall appoint . . . Judges of the supreme Court, and all other Officers of the United States. . . .

Thus the Constitution provides a role for both the President and the Senate in the process. And that is precisely what this August body is now undertaking, their constitutional responsibilities of giving advice and consent of a President's nomination of a principal Cabinet officer.

In fulfilling the constitutional role of the Senate, I have tried throughout my career to give fair and objective consideration to both Republican and Democratic Presidential Cabinet level nominees. There are times when I have voted for nominees whom I, frankly, perhaps, if I had been in the position, would have picked others. But the leader of the opposition party, the President, in those instances chose those individuals. I searched in my heart to find those qualifications which I felt justified the President's decision. I have no difficulty whatsoever finding in my heart and knowledge more than adequate reasons to support this distinguished nominee.

His personal story is a compelling one. He was of seven children that were raised in a two-bedroom household in Humble, TX, that his family built and in which his mother still lives.

From these modest roots, Mr. Gonzales became the first in his family to go to college, graduating from Rice University and then later graduating from Harvard law school.

Throughout his life, Alberto Gonzales has demonstrated a strong commitment to public service, beginning with his service in the United States Air Force between 1973 and 1975. Then, after a number of years in private practice at a Houston, TX law firm, Mr. Gonzales served as Texas' Secretary of State from 1997 to 1999. In 1999, he was appointed to serve as a Justice on the Supreme Court of Texas.

In 2001, Judge Gonzales left the Texas bench and was commissioned as Counsel to President Bush. In this capacity, I have had the opportunity to work with Judge Gonzales on a number of matters, particular matters related to the Department of Defense. I have come to know him as a conscientious, soft-spoken man with a brilliant legal mind.

While our next Attorney General will continue to face the unique challenges that many in law enforcement have faced since September 11, 2001, I am confident that Judge Gonzales will meet these challenges head on with a respect for our Constitution, and the laws and traditions of the United States.

I look forward to voting in support of Judge Gonzales's nomination and look forward to working with him on the challenges that lay ahead.

I say to those who have spoken in opposition, I respect that right and on the whole I feel this debate has been a good one, a proper one, and shortly we are going to vote. I am confident a strong majority of the Senate will approve this distinguished American for this post.

I would like to talk about some personal experiences I have had with this

distinguished nominee. I go back, with a sense of modesty in my humble career—I guess it was in the late 1950s and 1960s. I was privileged to be an Assistant U.S. Attorney. I met literally the first Attorney General I had ever met, having been summoned to his office with regard to some matters. I remember walking up into that vast chamber in the upper floors of the Department of Justice, and there was Bill Rogers, the Attorney General of the United States under President Eisenhower. I got to know him. As a matter of fact, he had a great deal to do with influencing me to remain in public office and I am everlastingly grateful to him. In the ensuing years I had the privilege of working with a classmate at the University of Virginia Law School. Although he was a year or so ahead of me, that classmate, Robert Kennedy, later became Attorney General.

So I have been privileged through my modest career in public office to have had an association with many Attorneys General. What stands out in my mind about Alberto Gonzales is this interesting observation. When we debate on this floor, as we are obligated to do, and do so often with a sense of fairness, we talk about judicial temperament. In many respects, you can go into the dictionaries and into the case studies, you can look wherever you want and there isn't any precise definition of what judicial temperament is. But it is an essential quality of those individuals who ascend to the bench.

I have had a number of meetings over the years with Judge Gonzales, some in the White House. Often he would say, Senator, I will come to your office. In addition, Judge Gonzales has always given me, and I am sure others in the Congress, the courtesy of promptly returning my telephone calls. That is something sometimes members of the executive branch don't do often with Members of Congress. But he returned the calls and returned them promptly. Throughout my interactions with Judge Gonzales, he always manifested to me in his mannerisms, the courtesies that he extended to me, and I presume other Members of Congress, the quiet manner in which he would listen to your points of view, or express his point of view. To me, his thoughtfulness and the courtesy emulate the very essence of what judicial temperament should be and the qualities an Attorney General should have.

It is so important that I bring that forward because he is instrumental in advising, and as Attorney General he will continue to be instrumental in advising, the President of the United States with regard to his Constitutional power with respect to judicial and executive branch nominees. I often say, yes; the power, but it is a responsibility that the Constitution places on the President to fill the vacancies in the third branch of Government, the judicial branch.

I can't think of a more important framework of appointments than the members of the Federal judiciary. So often they continue in office long after a President's term has been completed—or terms, as the case may be—and expound upon interpretations of the law. They often continue some of the goals for the President—not writing, hopefully, new law, which a jurist should not do, that is the function of the Congress, but interpreting the law within the framework of the Constitution and the several statutes of our Government.

But this man, to me, stands out as one who brings a great sense of dignity, a great sense of inspiration, particularly to those in the Department of Justice who continue and come to serve. I am confident that in his continuing interactions with the Congress of the United States he will not change what I view as the extraordinary and, indeed, magnificent manner in which he performs his duties, formally as chief counsel to the President, and hopefully soon to be, with the advice and consent of this distinguished body, as Attorney General of the United States of America.

I wish him and his family well. I thank them for their continued public service. I recount the other portions of my remarks today about his extraordinary background. He overcame such impediments and hardship to receive and to be grateful for what this country offered to him and his family by way of opportunities of education and public service.

This has been a very important moment in the history of the Senate as we begin to give our advice and consent on an Attorney General, one who is imminently qualified and able to fulfill this office with that degree of dignity and intellect, fairness, and firmness that is needed to serve our President, but most importantly to serve Congress and the Nation.

We are a nation of laws. That separates us from so many other nations in the world. We believe in the fairness of the law as it relates to every citizen—I repeat, every citizen.

I am proud to have the privilege to give these brief remarks on his behalf and indicate my strong support. I hope I encourage others to likewise support this important nomination.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise to also express my strong support for the confirmation of Alberto Gonzales to be Attorney General of the United States.

I would like to say to my colleague from Virginia, the senior Senator from Virginia, before he leaves, what a great honor it is for me to serve with him, to listen to his experience—his experience in this body, his experience serving this country as Secretary of the Navy, and experience which allows him to bring judgment on matters such as this.

I have also served under one President. If I have an opportunity to serve under a President of a different party, I want to bring the same kind of judgment here—judgment that the senior Senator from Virginia has already talked about. It is not about politics. It is not about what jersey you wear. We have had an election. The President then gets to pick his team. We look at character, we look at intellect, we look at integrity, and all of those factors. That should be the judgment we bring every time.

That is what the senior Senator from Virginia, with his experience, has brought to the table. I would like him to know that I intend to follow that in my time here. I think it is the right standard.

Mr. WARNER. Mr. President, I am deeply humbled by the comments of the Senator. It has been a privilege. I have had an awful lot of good luck, and a lot of people have given me the wisdom and counsel in which I have put together this modest career. I thank the Senator for his service and I enjoy working with him.

Mr. COLEMAN. Mr. President, I enjoyed the statement I heard the other day, that a pessimist is someone who complains when opportunity knocks. Opportunity is knocking—a unique opportunity to send a message that America belongs to us all. It is a chance to prove that hard work and character can take you wherever you want to go in this country, no matter where you came from.

I urge my colleagues not to major in the minors today, and to take this historic opportunity to confirm Alberto Gonzales by an overwhelming vote.

This is a land of opportunity—a place where anything can happen. It is a place where a Jewish kid from Brooklyn can grow up to be a Senator from Minnesota; a place where a young man from South Carolina takes on a lot of responsibility at a young age to take care of his family and finds himself presiding over the Senate; a place where success is not defined by who your parents are or what they did or were able to do but how hard you work. Judge Alberto Gonzales is such a person.

The son of migrant workers—we have heard the story again and again. I will repeat part of it—he grew up with seven siblings in a small house in Texas that his father built with his own two hands. As a child, Mr. Gonzales often stood outside of Rice University football games selling soft drinks to earn a few extra dollars. It was while standing outside of one of those Rice football games that he promised himself that he would one day attend that university and make the American dream his own.

He not only graduated from Rice University, but he went on to attend Harvard Law School, and to eventually become the first Hispanic partner in a prestigious international law firm.

However, Mr. Gonzales's story does not end there. He chose to enter public

service. He was general counsel to Governor Bush in Texas, served as secretary of state in Texas, a member of the Texas Supreme Court, and for the last 4 years served as chief counsel to President Bush.

Alberto Gonzales embodies the American dream, and he should be confirmed for Attorney General.

I have served as an attorney myself. The Presiding Officer has had that same honor, that same distinction. I was Solicitor General of the State of Minnesota and served 17 years in the attorney general's office.

I can tell you from that experience that there are two types of lawyers. A good lawyer will tell you what the law is, while a lesser lawyer might be tempted to tell you what you might want it to say.

Mr. Gonzales is a good lawyer. And part of that controversy surrounding his nomination comes from his strict interpretation of what the law actually says, and not what some might want it to say.

According to article 4 of the 1949 Geneva Convention, only lawful combatants are eligible for POW protection. When Mr. Gonzales determined that as a legal matter al-Qaida and the Taliban represented uncharted legal territory for which the Geneva Convention was never intended, he did his job as Counsel to the President.

In fact, the Red Cross, a world-respected humanitarian organization, states that in order to earn POW status, combatants must be commanded by a person responsible for his subordinates, have a fixed distinctive sign recognizable at a distance, carry arms openly and conduct their operations in accordance with the laws and customs of war—qualifications that do not easily fit al-Qaida or the Taliban, do not fit at all.

Now, this is not to say al-Qaida fighters should not be treated humanely, but only that Alberto Gonzales's interpretation of the convention was well grounded in the letter of the law and strictly adhered to the structure and history of the convention.

Alberto Gonzales did what any good lawyer should have done. He informed President Bush of the letter of the law. He did what is expected of a good attorney.

I serve on the Homeland Security Governmental Affairs Committee. We were in the process of hearing testimony yesterday from the new head and Secretary of Homeland Security, Judge Chertoff. Questions came up with Judge Chertoff about a memo that defined torture. He was pressed before the committee about his definition. He came back and said he exercised his legal judgment to let people know that if you move forward in this area, which is not clear, you better be careful. He did what was expected of a good lawyer.

I note that his nomination was put forth from two Senators across the aisle, both my friends, my Democrat colleague from New Jersey, standing side by side with Judge Chertoff, who did what a good lawyer should do, as Judge Gonzales has done.

I take a moment to remind my colleagues Article II, Section 2 of the Constitution states the President ''shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, or other public Ministers and Counsels, Judges of the Supreme Court and all other offices of the United States . . . '' That provision creates a special responsibility for this body.

While the Constitution does not spell out the criteria by which Members of the Senate determine whether to approve nominations, we can all agree our standards should be consistent, regardless of who is in the White House. That is what the senior Senator of Virginia talked about a while ago.

I have made it clear I do not believe it is appropriate for the Senate to use the nomination process as a referendum on the policies of the administration. Our democratic system has a method for determining the basic policy thrust of the President. It is called an election. Those who lose the election should not use the nomination process to rehash the issues the people have already decided. We went through this with the nomination of Condoleezza Rice for Secretary of State. Some chose to rehash some of the issues that were before the public in the election. The President has a right to appoint his team. Are they competent? Do they have integrity? Do they have the intellectual capacity to do the job? The American people have heard the argument and made their choice. It is time to move on.

The appropriate questions for the Senate are, Is the nominee qualified? Does the nominee have any ethical lapses in his or her public record? And does he or she possess the necessary temperament to serve the Nation well? It would also do some of my colleagues well to remember the approval of the nominee is not the same as approving every position the nominee has taken. Checks and balances remain after the advice and consent. No matter what the outcome of the vote, we will still maintain oversight of the Justice Department.

Thomas Edison once said:

Most people miss opportunity because it shows up in overalls and is disguised as hard work.

Alberto Gonzales saw an opportunity and worked hard to capitalize on it. He makes me proud to be an American. He is an exceptional attorney and a good man and eminently qualified to be the top law enforcement officer of the land. I enthusiastically support the nomination of Alberto Gonzales to be Attorney General of the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent my half hour be divided, with the first 10 minutes for myself, the second 10 minutes for the Senator from Washington, and the third 10 minutes to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, we are not voting today on just any appointment. We are voting today on a nominee to be Attorney General of the United States, historically one of the most important positions of power in our Government. The position is more important today than it has ever been as we wage the war on terror. At a time with unprecedented tension between the goals of security and liberty, we must be absolutely certain the person we confirm as Attorney General is right for the job.

The Attorney General stands apart from all other Cabinet officers. For those other Cabinet officers, simply carrying out the President's agenda is enough. The Attorney General, on the other hand, has to be someone who will follow the law, not just toe the party line. He must be someone who will do justice for all people, not just push the President's program. There are many times that demand independence from the President, when the Attorney General is asked, for instance, to approve a wiretap of an entire group. The Attorney General must make that decision based on the law and the precedent, not on loyalty to the President. The Attorney General owes his ultimate loyalty to the law on many of the decisions he makes, not to the person who nominated him.

There will be times when the legal weight of precedent is more important than the political weight of the President. That is the nub of why the Attorney General is not a typical Cabinet position. At such times the country needs an Attorney General who can stand the heat and do the right thing.

Independence is not such a critical quality in other Cabinet positions. The position of Attorney General requires more neutrality and independence than, for example, the Secretary of State, whose obligation is to advance the President's interests abroad. We must be absolutely sure that an Attorney General nominee not only has the right experience but the right view of the proper role of an Attorney General, to be an independent, nonpartisan chief enforcer of the laws.

For that reason, it is with great sadness and some heartache, because I so like and respect Judge Gonzales as a person and as an inspiration to so many, that I report I am unsure Judge Gonzales is the right man for this crucial job.

As I have said before, Judge Gonzales has many impressive qualities. He is a good person. He has impeccable legal qualifications. He has a breadth of legal experience, including time as a lawyer, a judge, and a White House Counsel. And, of course, Judge Gonzales has the kind of Horatio Alger

story that makes us proud to be Americans. But excellent credentials and an inspiring story are not enough, not in these times. One must also have the independence necessary to be the Nation's chief law enforcement officer.

When the White House asks the Justice Department for legal advice, on the other hand, the Justice Department is charged with giving an objective answer, not one tailored to achieve the President's goals. The Attorney General is supposed to provide sound legal advice in many of the decisions he or she renders, not political cover. As I have said before, it is hard to be a straight shooter if you are a blind loyalist.

I like Judge Gonzales. I respect him. I think he is a genuinely good man. I was initially inclined to support his nomination. I also believed, and I said publicly, that Judge Gonzales was a much less polarizing Attorney General than Senator Ashcroft has been. As I also said, being less polarizing than John Ashcroft is not enough to get my vote.

There are two models for an Attorney General, loyalist and independent. We know there are Attorneys General over the years who have been close to the President. There is no better example than Robert F. Kennedy, who served his own brother. That said, no one ever doubted in the confines of the Oval Office Bobby Kennedy would oppose his brother if he thought the President was wrong. Judge Gonzales is more of the loyalist type of Attorney General nominee than an independent type of Attorney General nominee, which does not alone disqualify him, but it raises serious questions.

After an extensive review of the record, unfortunately and sadly, despite my great personal affection for the judge, his testimony before this committee turned me around and changed my vote from yes to no. He was so circumspect in his answers, so allied with the President's position on every single issue, there was almost an eagerness to say, I will do exactly what the President wants, that I worry Judge Gonzales will be too willing to toe the party line even when the Attorney General is supposed to be above party. The Attorney General and the President are not supposed to be peas in the pod but, in short, Judge Gonzales still sees himself as chief counsel to the President rather than as chief law enforcement officer in the land, a very different type position.

Time and time again, this administration has gotten itself in trouble by going at it alone, by not seeking new opinions, by not reaching out, by doing things behind closed doors in the Justice Department, whether it was the total information awareness project, the TIPS Program, or torture. This Justice Department has been burned by a curious commitment to secrecy. I encouraged Judge Gonzales to be candid with the committee when discussing these issues. I encouraged him to give us some hope that he would run a very different Justice Department than John Ashcroft. But, unfortunately, even a cursory review of his answers—and I reviewed them more than once—reveals strict adherence to the White House's line and not a scintilla of independence. If his answers are any indication, once again, Judge Gonzales still sees himself as White House Counsel rather than a nominee to be Attorney General.

When push comes to shove, the Attorney General needs to stand up to the White House. We live in critical times and face crucial tests. The age-old struggle between security and liberty, which defines so many of the Founding Fathers' debates is alive and kicking. In fact, at no time since the internment of Japanese citizens in World War II has it been more relevant. We should have open debate about where the line should be drawn. We should not be afraid to confront the difficult questions that face us.

I have gotten in trouble with some of my friends on the left for suggesting there should be a reexamination of how we interrogate terror subjects. If a terrorist knew where a nuclear bomb was in an American city, and it was about to go off in 30 minutes, my guess is everyone in the room would say, do what it takes to find out. But we just cannot remake these rules behind closed doors.

Judge Gonzales's hearing was an opportunity for real debate on those issues. Instead, we got canned answers. I have great respect for the judge. The story of his life and the record of his achievements are inspirations to all of us. I am mindful of the fact that if he is confirmed, as I anticipate he will be, Judge Gonzales will become the Nation's first Hispanic Attorney General. It is a tremendous success story that makes this vote even more difficult.

When I called Judge Gonzales, last week, to tell him how I would be voting, it was one of the more painful phone calls I have had to make in a long time. He was understandably disappointed, but he was, as always, a total gentleman. He assured me we would be working together to solve our Nation's problems. He assured me he would prove me wrong. I hope he does. But this is just too important a job at too critical a time to have an Attorney General about whom I have such severe doubts. I really have no choice but to, with sadness, vote no.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, last week, I announced that I would oppose the nomination of Alberto Gonzales to be the Attorney General. I share many of the views on and reasons for opposing this nominee that my other colleagues have detailed—among them, the very grave concerns raised about Judge Gonzales's role in producing the so-called ''torture memos.''

But, I rise today to share with the Senate a reason for opposing this nominee that is particularly important to my home State of Washington. It is a reason that has not gotten much attention, but it is an issue I want to highlight because I feel Senators should know about it when they cast their vote on this nominee.

Among the reasons I am opposing Mr. Gonzales is his connections to Enron and his failure to commit to recuse himself from the Department of Justice's ongoing Enron investigation.

The Attorney General of the United States, as the chief law enforcement officer in the land, holds a special independent place in the government. After carefully listening to Judge Gonzales during his Senate hearings and reading his responses to questions, I do not have confidence that a Justice Department under his leadership will conduct the Enron investigations with sufficient vigor and independence.

We want our Attorney General to uphold the law no matter who the criminal is no matter how politically inconvenient and no matter who asks for his advice.

This administration's ties to Enron are common knowledge. In audiotapes released last summer, we heard Enron traders bragging about Enron's status as the number one contributor to the President's election campaign in 2000. We know that former Enron executives even had a hand in bankrolling the President's Inaugural festivities last month. So I think it's important for my colleagues to also realize that Judge Gonzales himself also had substantial ties to Enron while he was an attorney in private practice and then a candidate for the Texas Supreme Court.

Given the significance of this case and the past recusal of the outgoing Attorney General, Judge Gonzales should have made clear his intention to recuse himself from that investigation. Let me repeat this important point. Attorney General Ashcroft knew to recuse himself because of similar political ties to Enron.

Before his confirmation, I wanted the same assurances from Gonzales, or at least an explanation of why these former professional and political ties to Enron do not constitute grounds for recusal. I got none.

Let me make a few comments about the status of Federal investigations into the Enron mess, and why I believe it is so troubling that Judge Gonzales has to date refused to recuse himself from this matter.

It's my belief that, to date, the Department of Justice has done a good job in pursuing the case against Enron. I stood on this floor about seven months ago and applauded the work of the Enron Task Force when it handed down indictments of top executives including Ken Lay and Jeff Skilling last summer.

And the U.S. Attorneys in Northern California have been equally successful in bringing charges and securing guilty pleas from some of the Enron traders

implicated in the conspiracy to manipulate our Western power markets.

But this investigation is not finished. The Enron investigation must be allowed to proceed, free from any potential political interference from special interests, particularly the interests under investigation.

I would also note that we have not seen the same vigor—the same pursuit of justice—by other departments and agencies within the Administration, and in particular the Federal Energy Regulatory Commission. FERC is charged with protecting American consumers from precisely the types of fraud Enron perpetrated in our Nation's energy markets.

FERC is also run by three Bush administration appointees who had ties to Enron. In fact, the Senate Government Affairs Committee uncovered Enron memos recommending their appointment to the White House.

To date, these FERC appointees have failed to take any meaningful action to provide the victims of Enron's power market manipulations with any measure of relief. At every step of the way, it has taken public embarrassment to get FERC to pursue an Enron investigation of any integrity. Or in the words of a November 2002 report by the Senate Governmental Affairs Committee, ''Over and over again, FERC displayed a striking lack of thoroughness and determination with respect to key aspects of Enron's activities.'' Since then, the situation has only deteriorated. FERC's Enron investigation to date has been marked by a lack of aggressive action.

In fact, I'm going back to my office in just a few minutes to participate in a conference call with officials from the Snohomish Public Utility District in my home State of Washington. We are going to air publicly, for the first time, new Enron audiotapes. Shockingly, these Enron tapes were just discovered sitting in one of Enron's Houston warehouses. They were left behind by the same Federal regulators that are supposed to be defending our Nation's consumers from the types of fraud Enron perpetrated in our energy markets.

Only a small portion of these new tapes have been processed.

But on these tapes, the American public will hear Enron employees during the company's collapse bemoaning the fact they couldn't get promoted unless they ''cooked the books;'' speculating that ''everyone knew,'' and that ''nothing happened at Enron that Ken Lay didn't bless.'' This is evidence that was left behind.

New evidence will also show Enron traders fabricating excuses to shut down a power plant—on the very same day that rolling blackouts hit California and disrupted the Western power market. The blackouts affected at least half a million people that day. As we learned with the recent Northeast/Midwest blackout, these are serious matters. Not only do blackouts cost hundreds of millions of dollars in lost economic activity, they pose serious risks to human health and safety. They are no laughing matter. In my mind, this represents a whole new level of callousness.

But what Enron did was not just disgraceful on a human level—it was also illegal. It was a direct violation of power market rules and a direct violation of a DOE emergency order issued by former Secretary Bill Richardson the very same day.

And yet, our Federal agencies are not unearthing this new evidence. The FERC remains content to sit on its hands, more than four years after the Enron collapse. Utilities in the West are actually being sued by Enron for even more money. Yet FERC stands by, while Washington State ratepayers wait for the other shoe to drop.

The consumers in my State, in the States of Nevada and California, deserve justice. But what they've gotten are years of process—a procedural shell game.

We need more aggressive action from our Nation's top law-enforcement officer.

This is why I was so deeply troubled to read Judge Gonzales's answers to questions posed by Members of the Judiciary Committee in this matter. I want to thank my colleague, the Senator from Wisconsin, Mr. FEINGOLD, for asking these important questions. In his answers, Judge Gonzales would not state whether he would recuse himself, and he would not be specific about how his former ties to Enron might impact the Department of Justice's investigation of that company.

In his responses, Mr. Gonzales stated, ''I did some legal work for Enron over 10 years ago. I am told the work was totally unrelated to the collapse of the company.'' He added that ''it would be premature for me to commit to recuse myself from ongoing Enron prosecutions.''

Mr. Gonzales was clearly asked to provide more specificity, more details and more of a commitment on what Americans can expect from the Justice Department leadership on the Enron investigation. These answers of the nominee were not satisfactory.

I find this particularly troubling, given the fact Judge Gonzales has a clear history of employment related and political ties to Enron, and a track-record that leads me to question his judgment and his independence from the President.

As I stated at the outset, we want our Attorney General to uphold the law no matter who the criminal is no matter how politically inconvenient—and no matter who asks for his advice.

So I will vote against Judge Gonzales's nomination today, for this and other important reasons. But I am also here to note that the Federal Enron investigation is not over. It is likely that Judge Gonzales may be confirmed as Attorney General later today. Perhaps Judge Gonzales will recuse himself after he is confirmed.

But whatever his decision, I am here today to put Judge Gonzales on notice. If there is any hint whatsoever that the Enron Task Force is being undermined, underfunded, or otherwise hindered, this Senator will not stand for it. The Enron investigations must be allowed to proceed. And this Senator will be watching every single step of the way.

This Senate deserves straight answers from the President's nominees. Corporate criminals deserve to be prosecuted to the full extent of the law. And the victims of Enron's fraud in our Nation's power markets deserve relief.

What Enron did to my constituents in Washington and to countless others across the Nation was disgraceful.

Given these issues, I have substantial lingering questions about whether Mr. Gonzales would exercise independent judgment, especially when a clear commitment to conduct investigations and uphold a strict standard of conduct is needed.

I also have serious concerns about Judge Gonzales's legal judgment. As White House Counsel, his office generated a legal opinion on whether the President is bound by domestic and international law on torture, which the government recently repudiated as legally faulty.

Such a repudiation calls Judge Gonzales's judgment into question, judgment that is critically important for our country's top attorney. It also suggests he is not independent of the President, which is essential for his new Cabinet role. Further, Judge Gonzales's changed position on the torture memos in the weeks before his confirmation hearings appears to demonstrate political convenience, not a truly self-reflective change in his thinking on these matters.

Had Judge Gonzales recognized the serious problems with the judgments he made on these issues and given convincing assurances that he understands that his new role will require a different approach and a new allegiance to the law, I might have been convinced to defer to the President on this nomination. Without those assurances, and a clear commitment to ensure that there is no appearance that the Justice Department may take a difference course on the Enron investigation, I cannot support his nomination to be the next Attorney General of the United States.

In conclusion, many of my colleagues have spoken about this nomination. They have talked about a variety of issues, and certainly one of those issues is the independence of the Attorney General. That is clearly an issue that is at the forefront of my interest today.

The reason is because ongoing in the Department of Justice, and I wish ongoing in the Federal Energy Regulatory Commission, is an investigation of Enron and Enron fraud. This is an issue that Attorney General Ashcroft decided, when taking office—and the evidence started to pour in of market

manipulation—he basically looked at his record and background of having taken contributions from Enron and he recused himself from the Enron investigation and task force.

Now we have before us a new Attorney General nominee who not only has accepted campaign contributions from Enron, he actually worked to represent them at the law firm in his private practice, specifically working for the Enron company as an outside counsel.

If our past Attorney General clearly identified a conflict of interest and basically stepped aside to make sure he was not in any way unduly influencing the Enron investigation, why should not this nominee have clearly done the same thing—in particular, giving answers to the Judiciary Committee that he would recuse himself?

I am not a member of the Judiciary Committee. I am a past member of that committee, but I certainly asked my colleagues to submit questions to Judge Gonzales asking him if, in fact, he would recuse himself and to be explicit about any other ways in which he could ensure that this Enron investigation continued with its independence. Judge Gonzales would not commit to recusing himself from this situation.

Because he will not recuse himself, I cannot, today, give him my vote knowing that he will achieve the independence this agency so much needs to have when it comes to this investigation.

Just today, this very day, Snohomish County PUD will be releasing new information, new audiotapes from Enron employees that just happened to be left behind at the Enron Houston facility that investigators forgot to claim. These tapes actually have Enron employees discussing the fact that superiors, Enron traders, had asked them to cook the books.

We also will see other tapes and information that basically says that various, what are called, cogeneration facilities, that Enron had business relationships with, were actually asked to take generation offline, to come up with a scheme of why they should stop production of these powerplants. The result was a blackout in California in the next few days following this time period—something that is very troubling to us in the Northwest.

We have spent billions of dollars of economic impact, and we want an investigation to continue to take place. We want the independence that the Federal Energy regulators should have in this case in determining that just and reasonable rates have not been charged by Enron. We want the Department of Justice to do its job, unfettered by any kind of influence, and continue to pursue all those involved with the Enron case until justice is given and ratepayers have relief in the West.

So it is unfortunate that we cannot get Judge Gonzales to make a commitment up front about where he is going to be in recusing himself on this very important matter that has had great fiscal consequence to the people of the Northwest.

I wish, given all the other aspects of this nomination, I could overlook this issue or other questions that some of my colleagues have brought up, but I cannot.

As a young woman, when I first learned about our Attorney General, at a time and era when a White House and President and outside influence said that the Attorney General should just follow the line of what was happening in the White House, we had Attorneys General who decided, instead of not carrying out the law, they were not going to be influenced by the White House; that they would rather resign than not carry out the law. That is the kind of independence we want to see in an Attorney General.

The case is clear against Enron. The case for recusing himself is clear. Unfortunately, I cannot support the nomination of Alberto Gonzales today because I am not sure he will recuse himself in this case.

The ratepayers of Washington State need relief. We do not want to continue to have to be the policemen on the beat investigating this case, finding new evidence, proving that wrongdoing has happened, continuing to prove how much we have been hurt. We want Federal regulators to do their job and give us relief.

I ask unanimous consent that Mr. Gonzales's written responses to Judiciary Committee questions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ETHICAL ISSUES

1. During your service as Justice of the Supreme Court of Texas, it has been reported that you on occasion accepted donations from parties interested in cases before you. For example, in 2000, you reportedly accepted a $2,000 donation from the Texas Farm Bureau, which ran the defendant insurance company in Henson v. Texas Farm Bureau Mutual Insurance, in the period between oral arguments and decision. You also reportedly accepted a $2,500 donation from the law firm defending the insurer in another case, Embrey v. Royal Insurance, just before oral arguments.

a. Are these reports accurate:

Response: In Texas, the voters elect the Justices of the Supreme Court. My contributors, as well as those of every other Justice, are a matter of public record. I am confident that during my service as a Justice on the Supreme Court of Texas, I complied with all legal and ethical requirements regarding acceptance of campaign contributions.

b. Do you think it is ethical or appropriate for a judge to accept donations from parties appearing before him?

Response: Please see my response to 1a, above.

2. The Department of Justice is currently pursuing multiple prosecutions related to Enron's collapse into bankruptcy. Currently, voluminous evidence related to Enron's manipulation of Western electricity markets remains under a Department of Justice sought protective order, out of public view. This includes thousands of hours of Enron audiotapes as well as reams of emails from the files of traders and senior executives. Based on the small amount of materials publicly released thus far, it is reasonable to conclude this evidence will provide more insight into the inner-workings of Enron's schemes to manipulate Western power markets. While there may be reasons to withhold some of this evidence in light of ongoing Department criminal prosecutions, this material is also of extreme importance to regulatory agencies such as the Federal Energy Regulatory Commission and to parties attempting to secure financial relief from power prices resulting from Enron's schemes. Likewise, it is of interest to Congress, as we attempt to craft legislation that would prohibit future Enrons from defrauding American investors and ratepayers.

a. Please detail your previous contacts with Enron Corp. and its executives, both in your previous career in Texas as well as in your role as White House Counsel?

Response: As an attorney at Vinson & Elkins, I did some legal work for Enron over ten years ago. I am told the work was totally unrelated to the collapse of the company seven years later. I had contacts with certain Enron executives in connection with my election to the Texas Supreme Court. I also had contact with Enron officials in connection with my civic work in the Houston community. I do not recall any contacts with Enron and its executives in my role as White House Counsel.

b. Given these contacts, do you plan to recuse yourself from involvement in ongoing Enron prosecutions?

Response: If confirmed, I would take very seriously my obligation to recuse myself from any matter whenever appropriate. I would also treat with equal seriousness the charge that the Attorney General has to enforce the law fairly and equally on behalf of all Americans. It would be premature for me to commit to recuse myself from ongoing Enron prosecutions without knowing all of the facts and without consulting with Department personnel about recusal practice and history.

c. If you do intend to recuse yourself, who will be the point of contact for Members of the Senate interested in exercising oversight of the Department's handling of this matter?

Response: If confirmed, I would consult the attorneys at the Department handling this matter regarding congressional oversight.

d. Will you commit to releasing to Congress and the public the maximum amount of evidence now under seal at the earliest possible date?

Response: If confirmed, I would consult the attorneys at the Department handling this matter regarding the release to Congress of any sealed evidence.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, there are strong reasons that cause me to want to support the nomination of Alberto Gonzales. He is clearly well educated. He has the experience and credentials to be our Attorney General. He clearly has the confidence of the President, and, as a general matter, the President should be given broad discretion in choosing his Cabinet.

Alberto Gonzales's personal history, as the son of immigrant parents, is truly inspiring, and he would be the first Hispanic Attorney General in our Nation's history.

So under any normal circumstances, these reasons would be more than adequate to gain my support for this nomination.

But the fact is that the policies of this administration, which in some cases Judge Gonzales has championed, and in other cases he has willingly acquiesced in, have constituted a sad chapter in our Nation's history. This administration's willingness to evade and sidestep our historic commitment to the rule of law is unfortunate, indeed, and I fear that a vote for the nominee would be interpreted as condoning those reprehensible policies.

In July of 2003, I spoke on the Senate floor about my concerns with the policies and practices of the administration with regard to the detention of three categories of individuals: immigrants, persons detained as material witnesses, and persons detained as enemy combatants.

This morning I reviewed those comments, and I believe today my concerns regarding the failure to afford basic due process rights that I discussed then are well founded.

The administration, in reaction to the terrorist attacks of September 11, 2001, chose to argue against any and all legal protections against arbitrary and abusive exercise of the power of the Government to incarcerate individuals. It made those arguments by using the rationale that we were a nation at war and that the law of war overrode the rule of law as we have known it.

Judge Gonzales played a key role in developing the legal justifications for some of those policies. He strongly supported the decision to hold individuals unilaterally deemed enemy combatants by the President, including American citizens, indefinitely without judicial review. He advised the Judiciary Committee that he accepted the views in the Department of Justice memo that significantly limited the definition of torture and drastically expanded the President's power to overrule Federal and international restrictions to its use.

In remarks to the Standing Committee on Law and National Security of the American Bar Association in February 2004, Alberto Gonzales argued that the ''law of war'' justified the administration's position that the President has virtually unfettered authority to designate individuals as ''enemy combatants'' and then to incarcerate those individuals ''for the duration of hostilities.''

He went on to state:

> They need not be guilty of anything; they are detained simply by virtue of their status as enemy combatants in war.

Since that speech was given, the Federal courts have soundly rejected the proposition that the Government could hold individuals without according them the right to challenge the basis of their detention. In two cases decided this last June, Rasul v. Bush and Hamdi v. Rumsfeld, the Supreme Court reaffirmed the right of all individuals detained within the territorial jurisdiction of the United States to file a petition for a writ of habeas corpus and inquire into the legality of their detention. Indeed the right to challenge the Government's deprivation of a person's liberty is fundamental to our Nation's commitment to justice.

In the Hamdi case, the administration maintained that the President's authority to hold enemy combatants included American citizens and that Federal courts could provide minimal judicial oversight. The Government argued that a simple affidavit by a Department of Defense official alleging that Hamdi was involved in hostilities in Afghanistan was sufficient to indefinitely deprive an American citizen of his liberty. According to this administration, it was neither proper nor necessary to hold any factual or evidentiary hearing or to give Hamdi an opportunity to rebut the Government's assertions.

The Supreme Court disagreed and held that an American detained as an enemy combatant must be given a meaningful opportunity to contest the factual basis for his detention before a neutral arbiter. In reaffirming ''the fundamental nature of a citizen's right to be free from involuntary confinement by his own government without due process of law,'' the Court sent a clear message to the administration that ''a state of war is not a blank check for the President when it comes to the rights of our Nation's citizens.''

In Rasul, which involved the cases of foreign nationals held in Guantanamo for over 2 years, the administration argued that despite the fact the United States has exercised exclusive jurisdiction over Guantanamo since 1903, Federal courts have no jurisdiction to hear their claims because Cuba technically retained sovereignty in the area.

Once again, the Supreme Court disagreed and granted the detainees the right to demonstrate that they were being held contrary to domestic and international law.

Our failure to afford these individuals a right to be heard and to assert their innocence has in certain cases resulted in the unnecessary and lengthy detention of people who were merely in the wrong place at the wrong time. According to a Wall Street Journal article dated January 26 of this year:

> Commanders now estimate that up to 40% of the 549 current detainees probably pose no threat and possess no significant information.

Whether or not this number is completely accurate, it demonstrates the importance of providing individuals with the right to challenge the Government's claims and the right to refute the basis for their detention.

As many of my colleagues have pointed out, the administration's position regarding the treatment of detainees is as troubling as its position on its unfettered right to incarcerate. The Justice Department, through its Office of Legal Counsel, on August 1, 2002, issued its now discredited and withdrawn memorandum regarding standards of conduct for interrogation. That document provided legal sanction for abuse of prisoners by narrowing the definition of what we would recognize as torture under the Convention against Torture and other Federal law. It is true that this memorandum was prepared for Alberto Gonzales and not by him, but there is no indication that he disagreed with its conclusions. In fact, when asked about the memorandum in his confirmation hearing, he stated:

> I don't have a disagreement with the conclusions that were reached by the Department.

Removing the bright line that has guided our troops for the last 60 years increases the chances that other countries will refuse to afford our troops legal protections in future conflicts and enhances the likelihood that they will be made subject to harsh interrogation techniques.

MG Mel Montano, former head of the National Guard in the State of New Mexico, in his letter to the Judiciary Committee eloquently gave voice to those concerns. He said:

> I was among 12 retired Admirals and Generals . . . who wrote to you urging that you closely examine Judge Gonzales's role in setting US policy on torture during the confirmation hearing.
>
> At that hearing, Judge Gonzales did not allay concerns about his record. To the contrary, his evasiveness and memory lapses raised even more concerns. Judge Gonzales continues to maintain that he can't remember how the infamous torture memo was generated. He has refused to explain the language in his own memo which implied that rejecting the applicability of the Geneva Convention would insulate US personnel for prosecution of war crimes they might ''need'' to commit. And he asserts that the Convention Against Torture's prohibition on cruel and inhuman treatment doesn't apply to aliens overseas.
>
> In my view these positions put our servicemen and women—already facing enormous danger—at even greater risk. . . .

The Constitution is clear that the President ''will take care that the laws be faithfully executed.'' The obvious first responsibility of the Counsel to the President is to advise him concerning what is meant by that obligation.

As regards the basic protections in our Constitution and laws against incarceration and abuse of individuals by the Government, both the President and his legal counsel have failed in that duty. I am compelled to vote no on the nomination.

I ask unanimous consent that the full letter from Major General Montano to the Judiciary Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJOR GENERAL MELVYN MONTANO,
RET. USAF NATIONAL GUARD,
Albuquerque, NM, January 25, 2005.

HON. MEMBERS OF THE COMMITTEE ON THE JUDICIARY,
U.S. Senate Committee on the Judiciary, Washington, DC.

AN OPEN LETTER TO THE SENATE JUDICIARY COMMITTEE

DEAR SENATORS: I am writing to urge that you reject the nomination of Alberto

Gonzales for Attorney General. I understand that some Hispanic groups support Judge Gonzales's nomination and have urged you to confirm him. I write, as a Hispanic and as a military officer and veteran, to offer a different perspective.

I know what it feels like to be the first Hispanic named to an important leadership position in this country. I was the first Hispanic Air National Guard officer appointed as an adjutant general in the United States. I am a Vietnam veteran and served 45 years in the military, including 18 years in a command position. I welcome the prospect of more Hispanics serving in leadership positions in the government, and I respect Judge Gonzales's inspiring personal story. But I reject the notion that Hispanics should loyally support the nomination of a man who sat quietly by while administration officials discussed using torture against people in American custody, simply because he is one of our own.

I was among 12 retired Admirals and Generals, including former Chairman of the Joint Chiefs of Staff, General John Shalikashvili (Ret. USA), who wrote to you urging that you closely examine Judge Gonzales's role in setting U.S. policy on torture during his confinnation hearing.

At that hearing, Judge Gonzales did not allay concerns about his record. To the contrary, his evasiveness and memory lapses raised even more concerns. Judge Gonzales continues to maintain he can't remember how the infamous torture memo was generated. He has refused to explain the language in his own memo which implied that rejecting the applicability of the Geneva Conventions would insulate U.S. personnel from prosecution for war crimes they might ''need'' to commit. And he asserts that the Convention Against Torture's prohibition on cruel and inhuman treatment doesn't apply to aliens overseas.

In my view, these positions put our service men and women—already facing enormous danger—at even greater risk. In my capacity as Major General of the National Guard, I oversaw 4,800 National Guard personnel. When I think about how many of our troops fighting in Iraq today are drawn from the National Guard, it angers me that the danger they face has been increased as a resuIt of the policies Judge Gonzales has endorsed. I wonder, if Judge Gonzales' children grow up to serve in the military, would he be so cavalier in dismissing the Geneva Conventions as obsolete?

Some have cynically suggested that Americans who question Judge Gonzales's record on these issues do so because they are anti-Hispanic. I reject this view. My own concerns about Judge Gonzales' fitness to serve as Attorney General grow ftom a deep respect for American values and the rule of law. Judge Gonzales should be evaluated on his record, not his ethnicity. On the basis of that record, I urge you to reject his nomination.

Sincerely,

MAJOR GENERAL MELVYN MONTANO.

Mr. NELSON of Florida. Mr. President, while it is true, as many of my colleagues have pointed out, that Alberto Gonzales has chartered an impressive path, the son of migrant workers rising from humble beginnings to establish an impressive record as a judge and a lawyer, I do not cast my vote because of his life story.

I cast my vote in favor of Judge Gonzales because of two reasons: I believe it is the prerogative of the President to choose who is to serve in his Cabinet, and I believe Judge Gonzales is a smart and qualified lawyer.

Judge Gonzales served in the U.S. Air Force, graduated from Harvard Law School, was a partner in a prestigious law firm, a justice on the Texas Supreme Court, and the chief lawyer for Governor Bush and President Bush.

As a justice on the Texas Supreme Court, I have seen evidence of his independence and commitment to the rule of law in reaching decisions on controversial issues like parental notification for a minor seeking to terminate a pregnancy. While he may oppose it personally, he was able to set those feelings aside and issue a ruling based on the law. I believe that this is the Judge Gonzales who will serve as this Nation's Attorney General. I believe that this Judge Gonzales will appreciate the very important role he is to play as the top law enforcer who is charged with the duty of being the ''people's lawyer.''

The U.S. Attorney General serves at the pleasure of the President, but he does not serve to please the President. I believe that Judge Gonzales, the man I have met several times, is able to appreciate this important difference and will be faithful to fulfilling his responsibilities to enforce our laws and protect our freedoms.

I, as many of my colleagues were, was very troubled by the ''Bybee memo'' submitted by the Department of Justice and the memo Judge Gonzales drafted advising the White House as to the inapplicability of the Geneva Conventions.

As the President's lawyer, Judge Gonzales's responsibility was to represent the President and to provide legal advice in light of questions presented to him by the President.

I believe that Judge Gonzales understands the different role he is to play as Attorney General in representing the people's interest as a nation that honors the rule of law.

Mr. DORGAN. Mr. President, although Congress has the responsibility to advise and consent on the confirmable posts of Cabinet Secretaries, I have historically cast my vote in a manner that provides wide latitude for a President to select his Cabinet team. I have voted for Cabinet nominees with whom I have very substantial and deep disagreements because I believe a President should be able to select a team of his choice to pursue his administration's goals.

But there are those occasions where it is important for the Congress to express its independent judgment about the record and the qualifications of a Cabinet nominee.

That is the case with the nominee the President has sent us for the post of Attorney General.

I have met with Judge Gonzales on a number of occasions, and I think he is smart and capable and has served the President loyally for a long period of time. But I am very troubled by the results of the Judiciary Committee hearings on the nomination of Judge Gonzales. I believe there are serious questions about the role of Judge Gonzales in the development of guidelines defining ''torture'' in the war on terror that should be unsettling to all Americans. Judge Gonzales was evasive in answering direct questions about these issues and refused to release all of the information that has been requested by the Judiciary Committee.

With respect to civil liberties and issues relating to how our Government conducts itself, I want an Attorney General who will follow the law and not look for cracks or crevices in the law that will enable an administration to pursue its own course. Frankly, and regrettably, I think that Judge Gonzales in his work in the White House has not demonstrated the willingness to be independent, nor has he shown the concern about civil liberties that I want to see in an Attorney General.

These are difficult and uncertain times for our country. The war on terrorism is difficult and will likely be lengthy. It is important we have the tools available to combat terrorism, but it is also equally important for us to preserve our civil liberties and protect the constitutional rights of our citizens even as we wage the war on terrorism. For that reason, I believe it is critical to have an Attorney General who will understand that his responsibility is not to the administration, but rather to the Constitution.

Because of my concern for all of these issues, I cannot vote to confirm Judge Gonzales for the post of Attorney General. It is unusual that I vote against a President's choice for a Cabinet post, but I believe this an unusual time and circumstance, and I believe it is critical that we have an Attorney General who can resist the efforts of those who would diminish our civil liberties as we wage this war on terrorism.

Mr. KERRY. Mr. President, today we consider the nomination of Judge Alberto Gonzales—President Bush's selection for Attorney General of the United States. I will oppose this nomination for several reasons. Judge Gonzales's deep involvement in formulating the administration's detention and interrogation policies and his refusal to candidly answer questions about these matters concern me.

As White House Counsel, Judge Gonzales played a pivotal role in shaping the administration's policies on the detention and interrogation of enemy prisoners. In 2002 Judge Gonzales advised the President that the Geneva Conventions did not apply to terror suspects, and described some of the treaty's provisions as ''quaint.'' This dismissive approach to our international commitments laid the basis for President Bush's decision to treat terror suspects as ''unlawful enemy combatants.'' In casting aside the Conventions, Judge Gonzales opened a Pandora's Box that brought the country and American troops less security.

Separately, the Department of Justice circulated a memo it had written—

at Judge Gonzales's request—that provided an extremely narrow definition of torture. The memo was widely condemned and contrary to the plain language of the U.S. anti-torture statute and all legal precedents. When asked about this memo at his confirmation hearing, Gonzales said he did not recall, ''whether or not I was in agreement with all of the analysis.''

Do these revelations necessarily mean that Judge Gonzales is directly responsible for the prisoner abuse scandal that has damaged our national security and tarnished our Nation? Of course not. But his actions—at the very least—helped to create the environment in which the Abu Ghraib scandal took place. The result is less certain intelligence and more danger for American forces around the world.

I was struck during the hearings on Judge Gonzales's nomination when Senator Leahy asked if leaders of foreign governments could torture U.S. citizens if they thought it necessary to protect their own national security. Judge Gonzales replied: Senator, I don't know what laws other world leaders would be bound by. And I think it would—I'm not in a position to answer that question.

I wrote to Judge Gonzales asking him to clarify his answer. He responded, in fact that: international law forbids the use of torture. All parties to the Convention Against Torture have committed not to engage in torture and to ensure that all acts of torture are offenses under their criminal law. But it does not address the heart of the issue. Judge Gonzales interpreted U.S. and international law to suggest that U.S. citizens could conduct torture when the President of the United States gave them authority to do so. In doing so, he undermined the legitimacy of the very international norms he asserts would protect U.S. citizens. His assertions collapse under the weight of their own flawed logic.

This is not simply my judgment alone, but the judgment of some of America's most distinguished, retired military officers—including General John Shalikashvili, the former Chairman of the Joint Chiefs of Staff, General Joseph Hoar, former Commander-in-Chief of U.S. Central Command, and Lt. General Claudia J. Kennedy, the former deputy Chief of Staff for Army Intelligence. In an open letter to the Senate Judiciary Committee, they wrote:

> During his tenure as White House Counsel, Mr. Gonzales appears to have played a significant role in shaping U.S. detention and interrogation operations in Afghanistan, Iraq, Guantanamo Bay, and elsewhere. Today it is clear that these operations have fostered greater animosity toward the United States, undermined our intelligence gathering efforts, and added to the risks facing our troops serving around the world.

Judge Gonzales's interpretation of our commitments under U.S. and international law has been widely condemned in the United States and abroad, including by members of the State and Defense Departments. He is not an appropriate selection for the Attorney General of the United States.

Judge Gonzales's confirmation process presented him with an opportunity to reassure the country that as Attorney General he would uphold and enforce the laws that prohibit torture. Instead he offered evasive and overly legalistic answers. Judge Gonzales's refusal to answer questions about administration policy—either in oral testimony or in written responses to questions—raises doubts about his commitment to the rule of law.

His lack of candor before the Judiciary Committee leaves many outstanding questions about his role in determining administration policy. One can only conclude that either he lacks a fundamental understanding of U.S. and international law, which I believe to be untrue, or he is dismissive of its applicability as it relates to the President.

We have seen this approach taken by this administration before. They do not consult, they do not confer, they do not exercise good judgment and that is the end of the story. The rest of us are left to deal with the consequences. The policies Judge Gonzales favored have tarred the image of America in the world—not made us safer. They have placed our troops at even greater risk—not protected them. The choices he made as White House Counsel showed unacceptable judgment.

Mrs. CLINTON. Mr. President, there has been a lot of discussion throughout this debate of the personal story of White House Counsel Alberto Gonzales, who has been nominated by President Bush to serve as the next Attorney General of the United States.

I agree that Judge Gonzales's life story embodies the American dream. Judge Gonzales is the son of immigrants, and lived in a home with his parents and eight brothers and sisters that I am sure had a lot of love but that did not have a lot of comfort, with no running water and no telephone. Thanks to his hard work and dedication, he went on to graduate from Rice University and Harvard Law School; he served as the Texas Secretary of State and a Justice on the Texas Supreme Court; and of course he became White House counsel in 2000.

This is an extremely impressive record of personal accomplishment, and I admire Judge Gonzales for his life story, which proves that hard work can take you anywhere in this country, no matter where you start out on the economic ladder. It is inspiring not only for Hispanic Americans, but for all Americans.

But while a Cabinet nominee's personal story is relevant to our consideration of whether that nominee should be confirmed, I believe that our constitutional responsibility to advise and consent requires a more thorough look.

We in the Senate owe an obligation to the American people to consider and evaluate fully an Attorney General nominee's current policy and legal views, as well as his or her prior views and actions taken concerning relevant issues.

I have reviewed Judge Gonzales's record and his responses, or lack of responses, to the many thoughtful questions posed by members of the Senate Judiciary Committee. On the basis of his professional record and his unwillingness to answer critical questions, I am compelled to oppose his nomination.

Judge Gonzales's record as White House counsel contains misjudgments and misreadings of U.S. and international law that were so grievous as to have shaken the conscience of our Nation and the bedrock of the most fundamental aspects of our democracy.

Judge Gonzales advised President Bush in January 2002 that the Geneva Conventions did not apply to the conflict in Afghanistan. He wrote that the ''war on terrorism'' offers a ''new paradigm [that] renders obsolete'' the Geneva Convention's protections. Memos prepared under his direction that same year recommended official authorization of cruel interrogation methods including: waterboarding, feigned suffocation, and sleep deprivation.

In response to a draft memorandum prepared and circulated by White House Counsel Gonzales on the applicability of the Geneva Convention to the conflict in Afghanistan, then-Secretary of State Colin Powell, who served our Nation for decades with distinction both in and out of uniform, prepared a memo outlining his deep concerns with both Judge Gonzales's assertions and his reasoning.

Secretary Powell wrote that he was ''concerned that the draft [memorandum] does not squarely present to the President the options that are available to him. Nor does it identify the significant pros and cons of each option.'' The Secretary also noted a number of significant inaccuracies in the draft memorandum, concerning previous applications of the Geneva Convention.

In discussing the option of declaring that the Geneva Convention does not apply, Secretary Powell noted a number of key concerns, including that doing so ''would reverse over a century of U.S. policy and practice in supporting the Geneva conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general.''

Secretary Powell also noted many other major disadvantages of pursuing such a position, including the high cost in terms of a negative international reaction, which would hinder the ability of the United States to conduct its foreign policy, and noting that the policy would undermine public support among critical allies.

Judge Gonzales dismissed out-of-hand these concerns, as well as others raised by senior members of the military, and recommended that the Geneva Conventions do not apply.

I believe that all Members of this body strongly support our men and women in the military. As a member of the Armed Services Committee, however, I feel a particular personal obligation to do my utmost to ensure that our government does not do anything that unnecessarily puts our troops in harm's way; that diminishes our standing among our allies, from whom we have asked and will continue to ask much in helping us fight the global war on terror; or that blurs the values that distinguish us from our enemies, whose depraved actions and nihilistic morality stand in stark contrast to our Nation's historic values and conduct.

In serving as the President's top legal adviser on matters of both domestic and international policy and law, Judge Gonzales had that obligation as well. Unfortunately, I believe he fell short of meeting that obligation and let the American people, and especially America's men and women in uniform, down.

These are not just my views but the views of some retired senior members of our military. In an open letter to the Senate Judiciary Committee, this group of retired military leaders expressed their deep concern with this nomination. They noted his significant role in shaping U.S. detention and interrogation policies and operations in Afghanistan, Iraq, Guantanamo Bay and elsewhere and concluded, ''it is clear that these operations have fostered greater animosity toward the United States, undermined our intelligence gathering efforts, and added to the risks facing our troops serving around the world.'' Their open letter went on to say,

[p]erhaps most troubling of all, the White House decision to depart from the Geneva Conventions in Afghanistan went hand in hand with the decision to relax the definition of torture and to alter interrogation doctrine accordingly. Mr. Gonzales' January 2002 memo itself warned that the decision not to apply the Geneva Convention standards ''could undermine U.S. military culture which emphasizes maintaining the highest standards of conduct in combat, and could introduce an element of uncertainty in the status of adversaries.'' Yet Mr. Gonzales then made that very recommendation with reference to Afghanistan, a policy later extended piece by piece to Iraq. Sadly, the uncertainty Mr. Gonzales warned about came to fruition. As James R. Schlesinger's panel reviewing Defense Department detention operations concluded earlier this year, these changes in doctrine have led to uncertainty and confusion in the field, contributing to the abuses of detainees at Abu Ghraib and elsewhere, and undermining the mission and morale of our troops.

Almost as troubling to me as the advice Judge Gonzales gave the President as White House counsel is his unwillingness to respond to important questions posed by members of the Senate Judiciary Committee. During his nomination hearing before the Committee, Judge Gonzales was presented with repeated opportunities to repudiate his prior positions, and to respond to legitimate concerns. He consistently refused to do so. He also refused to respond freely to important written questions submitted by Judiciary Committee members that remained unanswered after the hearing.

Judge Gonzales's unwillingness to answer questions or to submit himself fully to the nomination process has extended beyond his dealings with the Judiciary Committee. The Congressional Hispanic Caucus has announced that it will not support his nomination, because Judge Gonzales refused to meet with the Caucus or address their questions. According to the White House, Judge Gonzales was ''too busy'' to meet with the CHC.

The CHC has determined that ''the Latino community continues to lack clear information'' about how Judge Gonzales would influence policies important to the Latino community. It is for this same reason that the New York-based Puerto Rican Legal Defense & Education Fund has withheld its endorsement from Judge Gonzales. PRLDEF signed a letter prior to Judge Gonzales's hearing before the Judiciary Committee, identifying serious concerns about his nomination. PRLDEF reports that Judge Gonzales has still not adequately addressed these concerns.

I believe the Congress and the American people deserve much more from a nominee who seeks to become the Nation's chief law enforcement officer.

What saddens me the most is that Judge Gonzales is an accomplished and bright public servant, and the circumstances that have forced me to oppose his nomination were eminently avoidable, had Judge Gonzales simply met his basic obligations as a lawyer and as a nominee.

Underlying my opposition to Judge Gonzales's nomination as Attorney General is the fact that as White House Counsel, one of the most important legal positions in the Nation, Judge Gonzales had a firm duty, as do all lawyers, to advise his client in this case President Bush with independent, professional judgment grounded in law, and based upon standards of morality and decency.

Indeed, the American Bar Association's Model Rules of Professional Conduct speak explicitly to the role of lawyers as counselors and advisors. One of those rules states that ''[i]n representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client's situation.''

The duty to exercise independent judgment and provide informed advice to one's client is a duty that all lawyers must uphold; lawyers are compelled to speak the truth as they independently see it, and not simply parrot back what they believe their clients want to hear.

I believe that as White House counsel, Judge Gonzales breached that duty, not only to his client President Bush, but to the American people. He advised that the President adopt a number of incorrect legal positions that were wrong on the law and wrong morally. And he did so on some of the most important issues confronting our Nation, at a time when thousands of young Americans fighting to promote democracy and freedom in Afghanistan and Iraq and around the world were at risk of mistreatment if captured. We cannot control the behavior of our enemies, but we can avoid giving them any excuse or rationale to mistreat Americans. And we can avoid giving them any basis on which to claim there is no difference between us and them.

For all of these reasons, I must oppose this nomination and ask my colleagues to do the same.

Mrs. BOXER. Mr. President, I begin by thanking my colleagues on the Judiciary Committee who did the hard work of exhaustively examining the nominee's record. They have done what the Constitution requires of us and the Founders intended—that Senators take seriously their role in giving advise and consent on members of the President's Cabinet.

The Attorney General is our Nation's chief law enforcement officer, tasked with upholding the Constitution and our laws.

While I believe Mr. Gonzales has a truly remarkable personal story, the poor judgment he has exercised in his role as White House Counsel has resulted in a serious consequences that cannot simply be overlooked when considering his nomination.

I will be voting against Mr. Gonzales for two main reasons.

First, Mr. Gonzales was the legal architect of the administration's policies on torture.

In 2002, when the intelligence community sought legal guidance about interrogation techniques, Mr. Gonzales asked the Justice Department to come up with legal justification for abusive interrogation tactics. The torture memo was drafted at his request and tacitly accepted by Mr. Gonzales. The Defense Department then used that memo to justify horrific and abusive interrogation tactics in Iraq, Afghanistan, and elsewhere.

This memo sets forth a position so outlandish that even the Dean of Yale Law School has said that much of Saddam's Hussein's horrific abuses—like cutting off fingers, electrical shock, branding and burning of skin—would not meet the memo's definition of torture.

Mr. Gonzales has never clearly repudiated this memo even though it has been a stain on our law and national reputation. Mr. Gonzales was asked about this memo at his confirmation hearings before the Judiciary Committee. Senator LEAHY specifically asked him if he agreed with the memo's very narrow reading of the law about what constitutes torture. Mr. Gonzales replied: ''I don't recall today

whether or not I was in agreement with all of the analysis, but I don't have a disagreement with the conclusions then reached by the Department.'' Mr. Gonzales's response was completely unacceptable.

It was his acceptance of this memo that formed the basis of administration policy for 2 years until the Department of Justice repudiated it on December 30, 2004, 1 week before Mr. Gonzales's hearings.

Second, Mr. Gonzales played a central role in shaping the Bush administration's policy toward detainees.

He called the Geneva Conventions ''quaint'' and ''obsolete''. And he advised President Bush to deny prisoners the protections under the Geneva Conventions, which had been the unbroken practice of the United States for over 50 years, and which have protected our soldiers since 1949.

He did this over the objection of Secretary Powell and State Department legal counsel. They warned that this advice could undermine military culture, generate confusion about how to treat detainees, and ultimately lead to abuse. Tragically, this is exactly what happened.

The torture and other abuses of prisoners in Iraq and Afghanistan have done immeasurable damage to America's standing in the world, have undermined our military rules and traditions, and exposed our own soldiers and citizens to greater risks.

I cannot support a nominee who has done so much damage to America's fundamental values and moral leadership in the world, and has taken actions and positions that put our soldiers and citizens at greater risk.

Mr. CORZINE. Mr. President, today we are considering the nomination of Alberto Gonzales to be the next Attorney General of the United States. Like many of my colleagues, I was inclined to support Judge Gonzales's nomination. I have had several dealings with Judge Gonzales and each time I have found him to be both cooperative and a gentleman. He has been extremely helpful and gracious in our mutual effort to fill the vacancies on the New Jersey Federal bench, and for that I am thankful.

Unfortunately, I cannot in good conscience support his nomination. Even though my personal interactions with Judge Gonzales have always been positive and productive, I have serious reservations and concerns about his role in the administration's attack on our laws and, more importantly, our sensibilities of what is right and just.

My vote against Judge Gonzales is not a vote against the man. In many ways, Judge Gonzales's story is the American success story. He grew up of modest means, the son of immigrants who came to this country in search of a better life. Judge Gonzales would not disappoint his parents. He has persevered academically and professionally, displaying a work ethic that would see him rise to the upper echelons of his profession and earn the trust and confidence of a President.

Yet while Judge Gonzales has ably served President Bush as his Counsel, as Attorney General his duty will be to the American people. And therein lies my concern.

As White House Counsel, Judge Gonzales played an integral role in formulating the Bush administration's policy on coercive interrogations in its war on terror. He advised the President to suspend the application of the Geneva Conventions, calling these international standards for humane treatment of detainees ''quaint'' and ''obsolete.'' He then tasked the Department of Justice with the job of identifying legal authority to justify the harsh interrogation tactics that became an international stain on our country's once proud moral standing in the world.

The ramifications of this abhorrent policy condoning torture cannot be downplayed. The United States has the most to lose by turning its back on the Geneva Conventions. Not only does the position advocated by the administration prevent the United States from claiming the moral high ground in future international entanglements, it also compromises our Nation's ability to build international coalitions. Finally, and perhaps most importantly, it signals to other countries that all bets are off, endangering U.S. troops who might be captured in future conflicts.

As many legal observers have noted, Judge Gonzales's advice was not only flawed from a legal standpoint, it also spoke to a larger failure. A client—even when he is the President—cannot always be deferred to. This is especially true when a client seeks justification for a position that runs contrary to the law. Judge Gonzales advocated for the administration's reversal of longstanding U.S. policies and practices supporting application of the Geneva Conventions and antitorture laws. He urged their suspension, relying on convoluted legal reasoning in order to justify an end. This willingness to skirt international law demonstrates a lack of independence from an administration committed to violating international principles of justice and humanity.

The job of Attorney General, unlike other Cabinet positions that advocate the President's agenda, requires independence. The Attorney General is tasked with enforcing the laws of the land, whether they advance or impede the President's policies. Judge Gonzales has not demonstrated a willingness to break from the President's agenda, and I fear his penchant for deferring to the President would hamper the Department of Justice in its mission to uphold the law. The need for independence is especially important in an administration that time and time again has demonstrated a cavalier attitude toward civil rights and civil liberties.

Should he eventually be confirmed, the challenges facing Judge Gonzales are numerous and daunting. And it is against this backdrop that I ask him to take on remedial efforts to restore not only America's moral standing in the world, but to restore the civil rights and liberties trampled on by this administration.

We need to strive to curb this administration's overreaching and to reinstate constitutionally protected civil liberties sacrificed by the administration in the name of fighting terrorism. I believe strongly that we can protect our Nation while preserving our cherished freedoms. Indeed, we can be both safe and free. Measures like racial profiling, which make people suspect because of their ethnicity or religion—rather than because of suspicious activity—are repugnant to our citizens, divert valuable resources from finding real terrorists, and ignore our Nation's commitment to freedom. I am certain that we can fight terrorism without resorting to hateful tactics such as racial profiling that cast a cloud of immorality over our country.

I sincerely hope that, if confirmed, Judge Gonzales takes up these challenges and provides an independent voice for the Department of Justice.

I know Judge Gonzales to be a gentleman and a patriot. And while I regrettably must oppose his nomination, I know that his confirmation is assured and pledge to work with him to ensure that our laws are enforced and our freedoms protected.

Mr. INOUYE. Mr. President, the nomination by President George W. Bush of Mr. Alberto Gonazales to serve as the Attorney General of the United States has stirred strong opposition. Although my first instinct is to support the prerogative of any President to select his own Cabinet, I have concluded upon a thorough review of Mr. Gonzales's record that I must oppose his nomination.

The Constitution confides in the Senate the duty of advice and consent. This means that my colleagues and I have the responsibility of considering the men and women the President nominates for high Government offices, and either confirming or rejecting them. Although many consider advice and consent to be a Senate right, I think of it as a duty that carries an obligation of fairness and due diligence. The power to reject a nominee should only be invoked where there is substantial doubt as to a nominee's fitness for office—not when there is a simple difference in political philosophy.

I do not personally agree with some of the positions that Mr. Gonzales has advocated, but that should come as no surprise, because I do not agree with many of the proposals made by the man who nominated him, President Bush. Most strikingly, I am appalled that he has professed only a ''vague knowledge'' of the racial and ethnic disparities in the imposition of the death penalty in Federal cases. These

very disparities in the State of Hawaii's penal system led me to champion the abolition of the death penalty in our territorial legislature many years ago, and I have remained opposed to this ultimate and irreversible sentence ever since.

Our philosophical disagreement over issues such as the death penalty, do not, in my mind, constitute a sufficient basis for opposing his nomination. His lack of candor and forthrightness in answering simple questions about his record does.

A January 2002 memorandum from Mr. Gonzales to the President advocated abandoning the Geneva Convention and its prohibitions on torture and inhumane treatment of prisoners of war. As a former officer in our Nation's military, I find this conclusion horrifying and repugnant. As a Senator, I find Mr. Gonzales's refusal to clarify his role in the subsequent development of a U.S. policy for torturing POWs inexcusable.

His decision—supported by the refusal of the Bush administration to turn over key documents—to stonewall efforts to bring this matter to the light of public scrutiny strikes to the very foundation of our Nation's democratic government. Our citizens have a right to openness and transparency in their public officials. Clandestine maneuvers under the ever-growing cloak of ''national security'' and ''executive privilege'' disenfranchises the electorate and deprives them of the information they need in order to make their choices at the polls.

Mr. Gonzales's failure to respond to questions legitimately posed to him by the Senate raises grave doubts in my mind as to his fitness to serve the people of the United States as their Attorney General. Mr. Bush may have the privilege of choosing his own ''team'' for his Cabinet, but American citizens have an unqualified right to be served by public officials who will answer candidly for their actions.

Accordingly, I must reluctantly oppose this nomination.

Mr. HARKIN. Mr. President, almost 35 years ago, in July of 1970, when I was a staff person in the House of Representatives, I was sent with a commission to Vietnam. My commission was to investigate reports about the South Vietnamese military using tiger cages to imprison, torture and kill people. Our State Department denied the existence of the cages, and our military denied the existence of the cages, calling reports of their existence Communist conspiracy stories.

Thanks to the courage of Congressman William Anderson of Tennessee and Congressman Augustus Hawkins of California, we were able to uncover the notorious tiger cages on Con Son Island. When the pictures I took appeared in LIFE magazine, the world saw North Vietnamese, Vietcong, and civilian opponents of the war in South Vietnam all bunched into these tiger cages, in clear violation of human rights, and in clear violation of the Geneva Conventions. The reaction was overwhelming. The pictures presented evidence of the cruel, torturous conditions in these tiger cages, how people had been tortured and killed, and how we, the U.S. Government, had provided not only the funding but the supervision for these prisons.

I thought that we had learned from that experience. So it was with a terrible sense of déjà vu that I saw the pictures of abuse at Abu Ghraib prison last year.

Since the Vietnam era, as a Government and as a society, we have taken strong measures against torture. We have passed a Federal law banning torture, and ratified an international treaty banning torture. The Army field manual today reads: ''The use of torture is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear. . . . It also may place U.S. and allied personnel in enemy hands at greater risk.''

Yet, it was in an extraordinary document prepared at the request of Alberto Gonzales, the nominee for Attorney General, that the groundwork for the abuses at Abu Gharib was laid. That document reaches three conclusions:

That the President has the inherent constitutional power as Commander in Chief to override the prohibitions against torture enacted by Congress;

That only acts that inflict the kind of pain experienced with death or organ failure amount to torture and that the interrogator must have the ''precise objective'' of inflicting severe pain even if he knew ''that severe pain would result from his actions''; and

That government officials can avoid prosecution for their acts of torture by invoking the defenses of ''necessity'' or ''self-defense'' even though the Convention Against Torture says the opposite.

Because he had never spoken publicly about his involvement in the development of these policies, Alberto Gonzales's confirmation hearing took on unusual importance. The hearing was his opportunity to explain his role in the preparation of this document and to step away from its conclusions. Instead, when asked about the memo, Gonzales stated ''I don't recall today whether or not I was in agreement with all of the analysis, but I don't have a disagreement with the conclusions then reached by the Department.'' Gonzales also reasserted his view that the President has the power to override laws passed by the Congress and to immunize others to perform what would otherwise be unlawful acts. These positions are wrong as a matter of law and wrong as a matter of conscience. The torture memo laid the groundwork directly for the abuses at Abu Ghraib and has done great harm to our stature in the international community.

As the nominee for Attorney General, Alberto Gonzales is the person with the single greatest responsibility to uphold and defend the rule of law. Not only is the torture memo a reprehensible document that sanctioned engaging in illegal acts of torture in violation of basic human rights, it is also a prime example of a legal analysis that twists, turns and makes farfetched leaps of logic in order to justify a policy end sought by the administration. This sort of willingness to circumvent the law, to treat it as an obstacle to be negotiated around, shows a fundamental lack of independence. It calls into question Mr. Gonzales's fitness to be the Attorney General. Because of this, but even more because of his fundamental lack of respect for basic human rights, I cannot support him to be the chief law enforcement officer of this country.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise today in opposition to President Bush's nomination of Alberto Gonzales to be Attorney General of the United States. While I have long held that any President deserves a presumption in favor of his nominees for Cabinet positions, the advice and consent role of the Senate should never be regarded as a mere formality.

The Attorney General, in particular, is far more than simply another political appointee or adviser to a President. The Attorney General plays a key role in the provision of justice for all Americans, and nominees to this enormously important office must be reviewed with senatorial scrutiny which is fair and not political but demanding.

I am profoundly troubled that Mr. Gonzales's promotion of torture flies in the face of deeply held American values, undermines our Nation's reputation around the world, and places American troops and other citizens abroad in great danger. As the father of a soldier who served in combat in both Afghanistan and Iraq, I am particularly concerned that our Nation's utilization of torture creates an environment where other nations and other organizations feel they have justification for torturing our troops and our citizens. There is little wonder why Mr. Gonzales's position was strongly opposed by the U.S. Army's legal corps and by the U.S. State Department.

Mr. Gonzales oversaw and approved the decision to disregard the Geneva Conventions for detainees from Afghanistan, he endorsed interrogation methods that military and FBI professionals regarded as illegal and improper, and he supported the indefinite detention of both foreigners and Americans without due process. It was only after the Supreme Court's intervention, which ruled that the prisoners were entitled to appeal their detentions in Federal courts, that some of the harmful policies were reversed. The Court also ruled that an American citizen could not be detained and held as an ''enemy combatant'' without court

review or the right to counsel, invalidating Mr. Gonzales's position in the cases of Yaser Esam Hamdi and Jose Padilla.

Mr. Gonzales made a second horrible judgment about the Geneva Conventions—that their restrictions on interrogations were ''obsolete.'' Quite apart from the question of POW status for detainees, this determination invalidated the Army's doctrine for questioning enemy prisoners, which is based on the Geneva Conventions and had proved its worth over decades. Regarding this issue, Mr. Gonzales ignored advice from the Army's own legal corps to Secretary of State Colin L. Powell. Why is this so alarming? The President's promotion of torturous interrogation practices, such as ''waterboarding,'' would likely invite retaliation against Americans beyond what already exists. This could have grievous effects on our men and women serving abroad. I can think of few things worse, as the father of a soldier, than to know America's own torture policies would increase the likelihood of more torture directed at our American troops.

Mr. Gonzales had an opportunity to clarify this issue while testifying in front of the Senate Judiciary Committee. During that hearing, Judge Gonzales refused to reject a narrow definition of torture and directly answer whether he thought the President has the authority to overrule the statute that condemns torture and provide immunity for those who commit torture based on the directive of the President.

Turning to another issue of importance, it is incumbent upon me to point out that while Mr. Gonzales was serving as counsel to then-Governor George W. Bush, he provided questionable advice regarding clemency of inmates. It appears Mr. Gonzales failed in his duty to provide complete information regarding death row inmates in the State of Texas. In some of the 57 memos he composed for Governor Bush, Mr. GONZALEZ failed to include all mitigating circumstances that should be considered in clemency for death row inmates. Some of these mitigating circumstances include inmates' ability to have qualified representation as well as the questionable mental status of some of the death row inmates.

Mr. Gonzales faced rigorous questioning by members of the Senate Judiciary Committee. Despite the opportunity to explain away concerns the American public had pertaining to his record and his beliefs, Mr. Gonzales did not convince me that he is the proper person to serve as our Attorney General, the chief law enforcement officer of the United States.

The New York Times correctly observed that the Attorney General does not merely head up the Justice Department; he is responsible for ensuring that America is a nation in which justice prevailed. Mr. Gonzales's record makes him unqualified to take on the role to represent the American justice system to the rest of the world.

Mr. President, I ask unanimous consent to have printed in the RECORD editorials from the Washington Post and the New York Times wherein these highly respected newspapers contend that the confirmation of Mr. Gonzales would be counter to fundamental American values. I share those views.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 26, 2005]

THE WRONG ATTORNEY GENERAL

(Editorial)

Alberto Gonzales's nomination as attorney general goes before the Senate at a time when the Republican majority is eager to provide newly elected President Bush with the cabinet of his choice, and the Democrats are leery of exposing their weakened status by taking fruitless stands against the inevitable. None of that is an excuse for giving Mr. Gonzales a pass. The attorney general does not merely head up the Justice Department. He is responsible for ensuring that America is a nation in which justice prevails. Mr. Gonzales's record makes him unqualified to take on this role or to represent the American justice system to the rest of the world. The Senate should reject his nomination.

The biggest strike against Mr. Gonzales is the now repudiated memo that gave a disturbingly narrow definition of torture, limiting it to physical abuse that produced pain of the kind associated with organ failure or death. Mr. Gonzales's attempts to distance himself from the memo have been unconvincing, especially since it turns out he was the one who requested that it be written. Earlier the same year, Mr. Gonzales himself sent President Bush a letter telling him that the war on terror made the Geneva Conventions' strict limitations on the questioning of enemy prisoners ''obsolete.''

These actions created the legal climate that made possible the horrific mistreatment of Iraqi prisoners being held in Abu Ghraib prison. The Bush administration often talks about its desire to mend fences with the rest of the world, particularly the Muslim world. Making Mr. Gonzales the nation's chief law enforcement officer would set this effort back substantially.

Other parts of Mr. Gonzales's record are also troubling. As counsel to George Bush when he was governor of Texas, Mr. Gonzales did a shockingly poor job of laying out the legal issues raised by the clemency petitions from prisoners on death row. And questions have been raised about Mr. Gonzales's account of how he got his boss out of jury duty in 1996, which allowed Mr. Bush to avoid stating publicly that he had been convicted of drunken driving.

Senate Democrats, who are trying to define their role after the setbacks of the 2004 election, should stand on principle and hold out for a more suitable attorney general. Republicans also have reason to oppose this nomination. At the confirmation hearings, Senator Lindsey Graham, Republican of South Carolina, warned that the administration's flawed legal policies and mistreatment of detainees had hurt the country's standing and ''dramatically undermined'' the war on terror. Given the stakes in that war, senators of both parties should want an attorney general who does not come with this nominee's substantial shortcomings.

[From the Washington Post, Jan. 26, 2005]

A DEGRADING POLICY

Alberto R. Gonzales was vague, unresponsive and misleading in his testimony to the Senate Judiciary Committee about the Bush administration's detention of foreign prisoners. In his written answers to questions from the committee, prepared in anticipation of today's vote on his nomination as attorney general, Mr. Gonzales was clearer—disturbingly so, as it turns out. According to President Bush's closest legal adviser, this administration continues to assert its right to indefinitely hold foreigners in secret locations without any legal process; to deny them access to the International Red Cross; to transport them to countries where torture is practiced; and to subject them to treatment that is ''cruel, inhumane or degrading,'' even though such abuse is banned by an international treaty that the United States has ratified. In effect, Mr. Gonzales has confirmed that the Bush administration is violating human rights as a matter of policy.

Mr. Gonzales stated at his hearing that he and Mr. Bush oppose ''torture and abuse.'' But his written testimony to the committee makes clear that ''abuse'' is, in fact, permissible—provided that it is practiced by the Central Intelligence Agency on foreigners held outside the United States. The Convention Against Torture, which the United States ratified in 1994, prohibits not only torture but ''cruel, inhumane or degrading treatment.'' The Senate defined such treatment as abuse that would violate the Fifth, Eighth or 14th amendments to the Constitution—a standard that the Bush administration formally accepted in 2003.

But Mr. Gonzales revealed that during his tenure as White House counsel, the administration twisted this straightforward standard to make it possible for the CIA to subject detainees to such practices as sensory deprivation, mock execution and simulated drowning. The constitutional amendments, he told the committee, technically do not apply to foreigners held abroad; therefore, in the administration's view the torture treaty does not bind intelligence interrogators operating on foreign soil. ''The Department of Justice has concluded,'' he wrote, that ''there is no legal prohibition under the Convention Against Torture on cruel, inhuman or degrading treatment with respect to aliens overseas.''

According to most legal experts, this is a gross distortion of the law. The Senate cited the constitutional amendments in ratifying the treaty precisely to set a clear standard that could be applied to foreigners. Nevertheless, Mr. Gonzales uses this false loophole to justify practices that contravene fundamental American standards. He was asked if there were any legal prohibition against U.S. personnel using simulated drowning and mock executions as well as sleep deprivation, dogs to inspire fear, hooding, forced nudity, the forced injection of mood-altering drugs and the threat of sending a detainee to another country for torture, among other abuses. He answered: ''Some might . . . be permissible in certain circumstances.''

This is not a theoretical matter. The CIA today is holding an undetermined number of prisoners, believed to be in the dozens, in secret facilities in foreign countries. It has provided no account of them or their treatment to any outside body, and it has allowed no visits by the Red Cross. According to numerous media reports, it has subjected the prisoners to many of the abuses Mr. Gonzales said ''might be permissible.'' It has practiced such mistreatment in Iraq, even though detainees there are covered by the Geneva Conventions; according to official investigations by the Pentagon, CIA treatment of prisoners there and in Afghanistan contributed to the adoption of illegal methods by military interrogators.

In an attempt to close the loophole, Sen. Richard J. Durbin (D–Ill.), Sen. John McCain

(R–Ariz.) and Sen. Joseph I. Lieberman (D–Conn.) sought to attach an amendment to the intelligence reform legislation last fall specifying that ''no prisoner shall be subject to torture or cruel, inhumane or degrading treatment or punishment that is prohibited by the Constitution, laws or treaties of the United States.'' The Senate adopted the provision unanimously. Later, however, it was stripped from the bill at the request of the White House. In his written testimony, Mr. Gonzales affirmed that the provision would have ''provided legal protections to foreign prisoners to which they are not now entitled.'' Senators who supported the amendment consequently face a critical question: If they vote to confirm Mr. Gonzales as the government's chief legal authority, will they not be endorsing the systematic use of ''cruel, inhumane and degrading'' practices by the United States?

[From the Washington Post, Jan. 16, 2005]

THE VOTE ON MR. GONZALES

Despite a poor performance at his confirmation hearing, Alberto R. Gonzales appears almost certain to be confirmed by the Senate as attorney general. Senators of both parties declared themselves dissatisfied with Mr. Gonzales's lack of responsiveness to questions about his judgments as White House counsel on the detention of foreign prisoners. Some expressed dismay at his reluctance to state that it is illegal for American personnel to use torture, or for the president to order it. A number of senators clearly believe, as we do, that Mr. Gonzales bears partial responsibility for decisions that have led to shocking, systematic and ongoing violations of human rights by the United States. Most apparently intend to vote for him anyway. At a time when nominees for the Cabinet can be disqualified because of their failure to pay taxes on a nanny's salary, this reluctance to hold Mr. Gonzales accountable is shameful. He does not deserve to be confirmed as attorney general.

We make this judgment bearing in mind the president's prerogative to choose his own cabinet, a privilege to which we deferred four years ago when President Bush nominated John D. Ashcroft to lead the Justice Department. In some important respects, Mr. Gonzales is a more attractive figure than Mr. Ashcroft. His personal story as a Hispanic American is inspiring, and he appears less ideological and confrontational than the outgoing attorney general. Mr. Gonzales is also not the only official implicated in the torture and abuse of detainees. Other senior officials played a larger role in formulating and implementing the policies, and Mr. Bush is ultimately responsible for them. It is nevertheless indisputable that Mr. Gonzales oversaw and approved a decision to disregard the Geneva Conventions for detainees from Afghanistan; that he endorsed interrogation methods that military and FBI professionals regarded as illegal and improper; and that he supported the indefinite detention of both foreigners and Americans without due process. To confirm such an official as attorney general is to ratify decisions that are at odds with fundamental American values.

Mr. Gonzales's defenders argue that his position on the Geneva Conventions amounted to a judgment that captured members of al Qaeda did not deserve official status as prisoners of war. If that had been his recommendation, then the United States never would have suffered the enormous damage to its global prestige caused by the detention of foreigners at the Guantanamo Bay prison. In fact, the White House counsel endorsed the view that the hundreds of combatants rounded up by U.S. and allied forces in Afghanistan, who included members of the Taliban army, foreign volunteers and a few innocent bystanders, as well as al Qaeda militants, could be collectively and indiscriminately denied Geneva protections without the individual hearings that the treaty provides for. That judgment, which has been ruled illegal by a federal court, resulted in hundreds of detainees being held for two years without any legal process. In addition to blackening the reputation of the United States, the policy opened the way to last year's decision by the Supreme Court, which ruled that the prisoners were entitled to appeal their detentions in federal courts. The court also ruled that an American citizen could not be detained and held as an ''enemy combatant'' without court review or the right to counsel, invalidating Mr. Gonzales's position in the cases of Yaser Esam Hamdi and Jose Padilla.

Mr. Gonzales made a second bad judgment about the Geneva Conventions: that their restrictions on interrogations were ''obsolete.'' Quite apart from the question of POW status for detainees, this determination invalidated the Army's doctrine for questioning enemy prisoners, which is based on the Geneva Conventions and had proved its worth over decades. Mr. Gonzales ignored the many professional experts, ranging from the Army's own legal corps to Secretary of State Colin L. Powell, who told him that existing interrogation practices were effective and that setting them aside would open the way to abuses and invite retaliation against Americans. Instead, during meetings in his office from which these professionals were excluded, he supported the use of such methods as ''waterboarding,'' which causes an excruciating sensation of drowning. Though initially approved for use by the CIA against al Qaeda, illegal techniques such as these quickly were picked up by military interrogators at Guantanamo and later in Afghanistan and Iraq. Several official investigations have confirmed that in the absence of a clear doctrine—the standing one having been declared ''obsolete''—U.S. personnel across the world felt empowered to use methods that most lawyers, and almost all the democratic world, regard as torture.

Mr. Gonzales stated for the record at his hearing that he opposes torture. Yet he made no effort to separate himself from legal judgments that narrowed torture's definition so much as to authorize such methods as waterboarding for use by the CIA abroad. Despite the revision of a Justice Department memo on torture, he and the administration he represents continue to regard those practices as legal and continue to condone slightly milder abuse, such as prolonged sensory deprivation and the use of dogs, for Guantanamo. As Mr. Gonzales confirmed at his hearing, U.S. obligations under an anti-torture convention mean that the methods at Guantanamo must be allowable under the Fifth, Eighth and 14th amendments of the U.S. Constitution. According to the logic of the attorney general nominee, federal authorities could deprive American citizens of sleep, isolate them in cold cells while bombarding them with unpleasant noises and interrogate them 20 hours a day while the prisoners were naked and hooded, all without violating the Constitution. Senators who vote to ratify Mr. Gonzales's nomination will bear the responsibility of ratifying such views as legitimate.

Mr. JOHNSON. Mr. President, while I have voted in favor of President Bush's other Cabinet nominees, I stand in strong principled opposition to the confirmation of Mr. Gonzales.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I rise in support of the nomination of Judge Alberto Gonzales to be the next Attorney General of the United States of America. Based on my relationship with him over the last 4 years, I am certain he will make an outstanding Attorney General for all of the people in the United States.

Judge Gonzales has the education, experience, and character to make an excellent Attorney General. I know this to be the case because I have worked closely with him virtually every week, and many times every day, for 4 years on many issues, including terrorism and judicial nominations. I can tell my colleagues that he is a good man, and he is more than up to facing this challenging assignment.

Before making a few remarks in support of this nomination, I want to again commend the many contributions of Attorney General Ashcroft. We all owe him a debt of gratitude for working so hard over the last 4 years to make America safer for all of our citizens.

Unfortunately, but perhaps not unexpectedly, the Gonzales nomination has become as contentious as the nomination of Attorney General Ashcroft. I can only hope that once Judge Gonzales is sworn in as Attorney General, his opponents will work with him in good faith in the interest of the American people.

I have been here over the last 2 days as some of my colleagues have gone on at great length about what they misleadingly allege is the Bush administration torture policy and how Judge Gonzales acted to condone torture. Nothing could be further from the truth.

They attempt to make him responsible for a memo he did not write, prepared by an office he did not run, in a department in which he did not work, and they claim he gave advice that President Bush did not follow, which, of course, he did not.

In fact, the memo Judge Gonzales did not write was written by a person he did not supervise in a department in which he did not work and which was ultimately rescinded in July of 2004 and later replaced by a new memorandum.

In his effort to oppose the Gonzales nomination, my good friend from Massachusetts has now even tried to give a new name to the Bybee memorandum. This week, for the first time, the senior Senator from Massachusetts actually called it the Bybee-Gonzales memo.

I said it before, and I will say it again. Judge Gonzales did not write the memo. Yet his name is added to Bybee as if he were a coauthor. Somehow holding Judge Gonzales responsible for a memo he received is not fair.

Apparently, all Judge Gonzales did was ask a very important question of the entity within the Department of Justice, the Office of Legal Counsel, whose job it is to answer such inquiries. Is that a crime? Just because you ask for information does not mean you will agree with the information you receive.

Most importantly, we know the administration's policy. They have been very clear. The President has been clear. Judge Gonzales has been clear: No torture. That is their position. It has always been their position. Treat all detainees humanely, even those such as captured al-Qaida suspects who are not covered by the Geneva Conventions.

Regardless of what the rescinded and replaced Bybee memo says about the law, the bottom line is that the President never authorized or acquiesced in the use of torture. He never ordered torture. The February 7, 2002, memorandum that precedes the Bybee memo by months makes that clear. Judge Gonzales also never recommended torture.

The President made clear that regardless of whether there might be a theoretical right to override the Convention Against Torture, he was not and is not authorizing torture.

Several Senators correctly argued that no one is above the law. I agree with that. Judge Gonzales has also made clear that no man, including the President, is above the law. The President and Judge Gonzales never said the President could override the Convention Against Torture.

There has been some discussion at the nomination hearing in the Judiciary Committee and on the floor of the Senate about whether a President's independent duty to preserve, protect, and defend the Constitution of the United States might one day require a President not to enforce a statute enacted by Congress but viewed by the President as unconstitutional.

I want to discuss this matter a little further.

Although President Bush has clearly not to date exercised this authority—if it, indeed, does exist—some are criticizing Judge Gonzales's views of this power saying they are somehow out of the mainstream, dangerous, or even reflecting a profound disrespect for the rule of law.

Let me respond to the arguments made by several Judiciary Committee Democrats who say Judge Gonzales somehow believes the President is above the law, or that the President can pick and choose the laws or standards he will follow.

Specifically, my esteemed colleague from Vermont, the ranking minority leader of our committee, has asserted that Judge Gonzales has ''indicated that he views the President to have the power to override our law and, apparently, to immunize others to perform what would otherwise be unlawful acts. This is about as extreme a view of Executive power as I have ever heard. I believe it is not only dead wrong, as a constitutional matter, but extremely dangerous. The rule of law applies to the President, even this President.''

I have looked closely at Judge Gonzales's opinion on this issue, and I can tell you he is being wrongly criticized.

Let me talk about Judge Gonzales's position on Presidential authority.

It should go without debate that Judge Gonzales has specifically rejected that portion of the August 1, 2002, Office of Legal Counsel memorandum which asserted that the President, as Commander in Chief, possessed the constitutional authority in certain circumstances to disregard the Federal criminal prohibition against torture. He emphatically stated in his confirmation hearing that the memorandum has ''been withdrawn. It has been rejected, including that section regarding the Commander in Chief's authority to ignore the criminal statutes. So it has been rejected by the executive branch. I categorically reject it. . . . [T]his administration does not engage in torture and will not condone torture.''

That is what Judge Gonzales has already said, and every member of the committee knows that. So why would they come here and say he said otherwise when, in fact, that is explicit?

I should also point out that Judge Gonzales made it very clear that no man, including the President, is above the law. If confirmed as Attorney General, I have no doubt that he will remain faithful to his oath to defend the laws of the United States.

At the same time, however, Judge Gonzales has appropriately recognized that the President, consistent with his oath to preserve, protect, and defend the Constitution of the United States, as well as longstanding historical practice, may in rare circumstances conclude that a statute is unconstitutional. This is not new or even surprising. What is significant to me is that Judge Gonzales recognizes the gravity and limitation of this practice.

When my colleagues learn more about Judge Gonzales's views on this matter, I believe most will agree with him.

In his written answers to questions posed by Senators, Judge Gonzales noted that a decision to disregard a statute on constitutional grounds is an extremely serious matter and should be undertaken with considerable caution and care and only in extraordinary circumstances.

In response to my friend from Vermont, Senator LEAHY, Judge Gonzales emphasized:

> I would be reticent to conclude that statutes passed [by Congress] are unconstitutional and would make every reasonable effort if I am confirmed as Attorney General to uphold and defend those statutes.

That is what a good lawyer would do.

Similarly, in responding to a question from my learned friend on the committee, the Senator from Illinois, Judge Gonzales stated:

> For a President to consider whether or not to ignore a particular law as unconstitutional, however, would pose a question of extraordinary gravity and difficulty. I would approach such a question with a great deal of care.

During his confirmation hearing, Judge Gonzales rendered his opinion on this delicate issue when he stated the following:

> I think that . . . the executive branch should always look very carefully with a great deal of seriousness and care about reaching a decision that a statute passed by Congress is somehow unconstitutional and should not be followed. Certainly if I were confirmed, I would take my oath very, very seriously to try to defend any act passed by Congress, but it does appear to me, based upon my review of the history and precedent . . . that Presidents and White Houses on both sides of the aisle have taken the consistent position that a President may choose to not enforce [a] statute that the President believes is unconstitutional.

He goes on to say:

> The President is not above the law. Of course, he is not above the law. But he has an obligation, too. He takes an oath as well. And if Congress passes a law that is unconstitutional, there is a practice and a tradition recognized by Presidents of both parties that he may elect to decide not to enforce that law.

Again he goes on to say:

> Whether or not the President has the authority in that circumstance to authorize conduct in violation of a criminal statute is a very, very difficult question, as far as I'm concerned. And I think that any discussion relating to this line of reasoning would be one that I would take with a great deal of seriousness, because there is a presumption that the statutes are, in fact, constitutional and should be abided by. And this President does not have a policy or an agenda to execute the war on terror in violation of our criminal statutes.

That is what he said.

These are the statements of a man who understands that no one, including the President, is ''above the law,'' and that history and legal precedent allows, on the most serious and rarest of occasions, a President, if he believes a law is unconstitutional, to veto or even disregard such a law. Judge Gonzales appropriately described what we in this body have known for many years and through many administrations, both Republican and Democratic.

What if Congress passed a law that was discriminatory against a particular group of people? Now, I do not think Congress is going to do that, but what if it did? Should a President enforce that law knowing it is unconstitutional? I think most of us would conclude, no, he should not.

Now I want to go through the history and precedents that support Judge Gonzales's views regarding Presidential authority. Let me begin by pointing out that the Department of Justice's view that the President, in rare circumstances, may decline to enforce statutes that he finds to be unconstitutional is consistent with the position taken by the Justice Department in administrations of both parties for over 100 years.

In the 19th century, both James Buchanan's and Abraham Lincoln's Attorneys General argued that the President possesses the authority, under certain circumstances, to decline to enforce or disregard statutory provisions he views as unconstitutional. In 1860, Attorney General Jeremiah S. Black explained that ''[e]very law is to be carried out so far forth as is consistent with the Constitution, and no further.'' Thus, ''[t]he sound part of it must be executed, and the vicious portion of it suffered to drop.''

In 1861, Attorney General Edward Bates echoed this view when, in answering a question from the Secretary of the Interior as to whether the executive branch had the power ''to examine and decide upon the validity of an act of Congress, and to disregard its provisions,'' he advised that in cases where the conflict between the Constitution and a statute is ''plain and obvious,'' officials in the executive branch ''must disregard [the] statute.'' They may not, Attorney General Bates explained, ''disregard the Constitution, for that is the supreme law.''

In the 20th century, Democratic and Republican administrations consistently maintained that the President, in rare circumstances, may decline to enforce statutes he believes to be unconstitutional.

In 1918, Acting Attorney General John W. Davis of the Wilson administration agreed with the advice given by Attorney General Bates more than 50 years earlier that the President may decline to enforce a statute when its conflict with the Constitution is ''plain and obvious.''

My gosh, this is elementary law. I think almost anybody would have to agree with these conclusions, except somebody who just does not know elementary law or does not know constitutional law at all.

The Carter administration also took the position that the President may decline to enforce in certain circumstances statutes he viewed as unconstitutional. Carter administration Attorney General Benjamin Civiletti recognized that ''the Executive's duty to execute the law embraces a duty to enforce a fundamental law set forth in the Constitution as well as a duty to enforce the law founded in the Acts of Congress, and cases arise in which the duty to the one precludes the duty to the other.''

He therefore instructed in 1980 that the Education Department could implement regulations that Congress had already disapproved through the use of the legislative veto because the administration believed the statute authorizing the legislative veto to be unconstitutional.

Attorney General Civiletti, a Democrat in a Democratic administration, even went so far as to advise that the President could disregard a statutory provision forbidding the executive branch from expending money to implement regulations disapproved by legislative veto. Now, this is very significant because disregarding such a provision would constitute a violation of the Antideficiency Act, which carries with it criminal penalties.

The Carter administration's Office of Legal Counsel also took the position that ''the President's duty to uphold the Constitution carries with it a prerogative to disregard unconstitutional statutes.'' It therefore advised that if the unconstitutionality of a statute was certain, then ''the Executive could decline to enforce the statute for that reason alone.''

During the Reagan administration, Attorney General William French Smith also took the position that the President possesses the authority to disregard statutes he viewed as unconstitutional deviations from the separation of powers set forth in the Constitution.

In explaining President Reagan's decision to disregard certain provisions in the Competition in Contracting Act that he believed to be unconstitutional, Attorney General Smith stated the President's decision was ''based on the fact that in addition to the duty of the President to uphold the Constitution in the context of the enforcement of Acts of Congress, the President also has the constitutional duty to protect the Presidency from encroachment by the other branches.''

In the George H. W. Bush administration, the Office of Legal Counsel concluded in three separate opinions that the President could choose to disregard statutes that infringed on his constitutional authority. First, in 1990 the Office of Legal Counsel noted that ''[t]he Department of Justice in modern times has . . . consistently advised that the Constitution authorizes the President to refuse to enforce a law that he believes is unconstitutional.''

In another issue that occurred in 1992 which involved a statute that limited the President's ability to issue more than one passport to U.S. Government personnel, the Office of Legal Counsel concluded that the President was ''constitutionally authorized to decline to enforce [it]'' because it ''interfere[d] with the 'plenary and exclusive' power of the President to conduct foreign affairs.''

In the Clinton administration, the Office of Legal Counsel in 1994 reaffirmed the view that ''there are circumstances in which the President may appropriately decline to enforce a statute that he views as unconstitutional.'' In particular, that Clinton Office of Legal Counsel in the Justice Department explained that ''[w]here the President believes that [a statute] unconstitutionally limits its powers,'' ''he has the authority to defend his office and decline to abide by [the statute], unless he is convinced that the [Supreme] Court would disagree with his assessment.''

In the Clinton administration, the Office of Legal Counsel noted that the Department of Justice in the Carter, Reagan, and Bush administrations had consistently advised that ''the Constitution provides [the President] with the authority to decline to enforce a clearly unconstitutional law,'' and we reaffirm that ''this advice [was] consistent with the views of the Framers.''

Let me also point out that the view that the President, in rare occasions, may decline to enforce a law that unconstitutionally restricts his authority has also been consistently embraced by Presidents of both parties. Let me give a few examples.

In 1920, President Wilson announced that he would refuse to carry out a provision in the Jones Merchant Marine Act directing him to terminate certain tariff-related treaty provisions because he considered such a requirement to be unconstitutional.

President Dwight D. Eisenhower, in signing an appropriations act in 1955 that contained a legislative veto provision, stated that any legislative veto would ''be regarded as invalid by the executive branch of the Government . . . unless otherwise determined by a court of competent jurisdiction.''

Similarly, Presidents John F. Kennedy, Lyndon B. Johnson, Jimmy Carter, and Ronald Reagan later issued similar signing statements regarding the invalidity of legislation containing legislative veto provisions.

Moreover, Presidents Richard M. Nixon and Gerald R. Ford announced in signing statements that they would disregard legislative provisions requiring that a congressional committee approve the exercise of Executive authority, and they should have. In fact, according to one historian's survey, it is estimated that from 1789 to 1981, there were at least 20 instances where Presidents had failed to comply with statutory provisions they viewed as unconstitutional.

In these cases, Presidents have disregarded statutes that they believed intruded on, among other powers, their Appointments Clause powers, Recommendations Clause powers, removal powers, foreign affairs powers, pardon powers, and powers as Commander in Chief. Such Presidents include James Buchanan, Chester Arthur, Grover Cleveland, William Howard Taft, Woodrow Wilson, Franklin Roosevelt, Dwight Eisenhower, Lyndon Johnson, Gerald Ford, Jimmy Carter and Ronald Reagan.

In at least four of these cases, Presidents refused to follow the law because they believed it to infringe their powers as Commander in Chief. In 1860, President Buchanan disregarded a law requiring an Army Corps of Engineers project to be supervised by a particular captain, reasoning that this requirement intruded on his powers as Commander in Chief. Likewise, Presidents Ford, Carter, and Reagan disregarded various provisions of the War Powers Act, arguing that certain consultation, notification, and termination provisions contained in the act infringed upon their constitutional authority as Commander in Chief.

Finally, I want to draw particular attention to the holdings of the U.S. Supreme Court which has implicitly agreed with the view that the President, in extraordinary circumstances, has the authority to decline to enforce statutes that he views as unconstitutional when he believes that such statutes intrude upon the constitutional prerogatives of the Presidency. In 1926, the U.S. Supreme Court upheld President Wilson's decision to remove a postmaster from office in violation of a statute requiring him to first obtain the Senate's consent. The Court held that the statute in question constituted an unconstitutional limitation on the President's power to remove executive officers, and thus that the removal of the postmaster without the Senate's consent was legal. This is the teaching of the case of Myers v. United States, 272 U.S. 52 (1926).

Most notably, not a single member of the Court in Myers found or even suggested that the President had exceeded his authority or acted improperly by refusing to comply with what he viewed as an unconstitutional statute. As a result, the Clinton administration's Office of Legal Counsel concluded that:

[t]he [Supreme] Court in Myers can be seen to have implicitly vindicated the view that the President may refuse to comply with a statute that limits his constitutional powers if he believes it is unconstitutional.

More recently, four Supreme Court Justices have explicitly endorsed the position that the President may refuse to obey statutes he believes to be unconstitutional. In the 1991 case of Freytag v. Commissioner, Justice Scalia, in an opinion joined by Justices O'Connor, Kennedy, and Souter, explicitly stated that ''the means [available to a President] to resist legislative encroachment'' upon his power include ''the power to veto encroaching laws, or even to disregard them when they are unconstitutional.''

Consequently, there should be no hesitation regarding Judge Gonzales's responses to and analyses of this area of the law. He would be derelict were he to not acknowledge that there was indeed, in rare circumstances, precedents for a President to find a statute unconstitutional. It is unfair and unjustified to criticize this nominee for his accurate and, as I have just pointed out in some detail, traditional legal analysis of this issue. On top of that, these criticisms have ignored Judge Gonzales's very firm resolve that no man is above the law and that the President himself is not above the law. Sooner or later in this body we have to take people at their word. Having spent 4 years working with Judge Gonzales, I think you can take him at his word. I know you can.

I hope that this discussion puts to rest the erroneous suggestion that somehow Judge Gonzales holds some perverted view of the reach of the power of the President. President Bush certainly has never felt the need to assert this authority over the last 4 years which makes it hard to understand why it has become an issue in the Gonzales confirmation.

Of course, Judge Gonzales respects the law. Here is a man who was a justice on the Texas Supreme Court, where it was his job every day to uphold the law and mete out justice. He practiced law with one of the most prestigious law firms in the United State, Vinson and Elkins.

Here is a man who served honorably for his Country in the United States Air Force. Here is a man who was Texas's Secretary of State. And some of my colleagues say they will vote against him because he does not have the proper respect for the law. I simply do not understand this.

We know that Judge Gonzales is fully capable of acting independent of the President. It is not as if this will be the first time Judge Gonzales will be in a job that requires independence from President Bush. When he was a justice of the Texas Supreme Court, he was independent. At that time, he was no longer representing the interests of a Governor, he was representing the judicial system. He was upholding the law for those in Texas.

To suggest that he does not know how to exert his own opinions is offensive. He has done it before and he will do it again.

To those who criticize Judge Gonzales's responsiveness to questions submitted by the committee, let me just say this. When President Clinton nominated Janet Reno for the position of the next Attorney General, she was presented with 35 questions by the committee. We confirmed her—and I personally voted for her even though she did not respond to any of those questions prior to the vote. In fact, she did not submit her responses until 8 months after she was confirmed. We didn't rake her over the coals. We didn't send her 500 questions that required 250 pages of single-spaced answers. In contrast, Judge Gonzales responded to over 450 questions within 2 business days. He then responded to several series of additional questions over the next weeks. In total, he submitted 250 pages of single-spaced written responses to 500 questions posed by members of the Judiciary Committee. To claim that we do not know enough about his policy views simply is not supported by the voluminous record.

We didn't know anything about Janet Reno's policy views. We supported her because she was the nominee of the President and we believed her to be a good person and that she could do the job.

There is no excuse for people not supporting Judge Gonzales as the nominee of the President, because he is a good person and he has more than convinced any reasonable person that he can do this job.

Judge Gonzales is someone with whom I have worked very closely on many difficult issues during President Bush's first term. I didn't know him before President Bush was elected—at least I don't remember having met him. But I know him very well since he was appointed as White House Counsel. He is a first rate attorney. He is a straight shooter. He has always told it like it is, and he will tell it like it is. He is honest, hard working, intelligent, and experienced and he has said that he understands these principles.

He understands the difference between being Attorney General and the White House Chief Counsel. He understands that he represents all the people in America as Attorney General.

He came up the hard way and he is his own man. I am proud to know him. I am proud to have worked with him. I believe in the man. I believe he will do a great job. And I believe it is time for us to treat him with a little more respect than we have in the past.

I thank my colleague from Michigan. I know he probably wants to speak. I spoke at length. I apologize for that. But I thank him for his graciousness as he always listens to me, and to others as well.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my friend from Utah.

Mr. President, I will vote against the nomination of Alberto Gonzales today because of the central role he played in establishing the legal framework that set the stage for the torture and mistreatment of persons in U.S. custody. That framework ignored prohibitions in our law and our international obligations. Of immense significance, this legal framework endangered American troops by making them more vulnerable to like treatment.

The shocking photographs of prisoner abuse at Abu Ghraib prison—images of a hooded man connected to electric wires, prisoners on dog leashes, naked men in so-called stress positions, and beaten, humiliated, or murdered prisoners—are now linked with American behavior. Prisoner abuse in Iraq, Afghanistan, and elsewhere has deepened the anger and resentment that some feel toward our country and has given a propaganda club to our enemies.

Longstanding legal prohibitions against torture and inhumane treatment are pivotal to the protection of American troops engaged in combat outside the United States, because upholding our commitments to international prohibitions against torture and inhumane treatment gives us the moral and legal standing to demand that others refrain from torturing or mistreating American service men and women in their custody and to enforce those demands.

Our top military lawyers, including the Legal Adviser to the Chairman of the Joint Chiefs of Staff and the Army's Judge Advocate General, expressed reservations and concerns at various times during the development of the administration's legal policies

regarding the handling of detainees. Military lawyers warned against deviating from the standards of the Geneva Conventions. Military lawyers also reportedly argued against tough interrogation techniques advocated by civilian attorneys saying such tactics would violate established military practice and, if revealed, would provoke public condemnation both at home and abroad. In the end, Judge Gonzales sided with the civilian attorneys in opposing the recommendations of our Senior military lawyers.

Also, a group of 12 retired senior military officers, including former Chairman of the Joint Chiefs of Staff, retired Army General John Shalikashvili, took the highly-unusual step of writing the Senate Judiciary Committee a letter critical of Judge Gonzales. They expressed deep concern in particular over his role ''in shaping U.S. detention and interrogation operations in Afghanistan, Iraq, Guantanamo Bay, and elsewhere.'' Those retired military officers stated, ''Today, it is clear that these operations have fostered greater animosity toward the United States, undermined our intelligence gathering efforts, and added to the risks facing our troops serving around the world.'' They also stated that Judge Gonzales's positions were ''on the wrong side of history.''

Judge Gonzales's personal history is inspiring. However, it is not enough to qualify someone to hold the office of Attorney General of the United States. The Attorney General is our chief law enforcement officer, the leader of the Department of Justice, and the first arbiter of our laws. We rely on the Attorney General to help maintain the rule of law in this country.

The rule of law seriously broke down in our treatment of prisoners. The Defense Department's own investigations show that abuses of detainees were not restricted to the acts of a few lower-ranking Reservists working the night shift at Abu Ghraib prison. They were widespread. The panel chaired by former Secretary of Defense James Schlesinger which examined the causes of these abuses found in their August 2004 report that ''There is both institutional and personal responsibility at higher levels.''

At two critical decision points, Judge Gonzales was at the center of the administration's development of an overly aggressive legal framework for the interrogation of detainees. Their policies broke with long-standing legal doctrine regarding the treatment of detainees and exceeded the limits of the law regarding permissible interrogation techniques. In doing so, Judge Gonzales contributed to creating an environment in which the systematic and abusive behavior toward detainees in U.S. custody was either permitted or was perceived to be permitted.

The first critical point at which Judge Gonzales played a role was in formulating the Administration's policy regarding the status of al-Qaida and Taliban combatants under the Geneva Conventions on the Treatment of Prisoners of War.

Judge Gonzales's view of the Geneva Conventions was revealed in his January 25, 2002, draft memorandum to the President. In that memorandum, Judge Gonzales advised the President against agreeing to Secretary of State Powell's request that the President reconsider his determination that the Geneva Convention on the Treatment of Prisoners of War does not apply to either al-Qaida or the Taliban. The State Department's position at the time, according to the Schlesinger panel report, was that the Geneva Conventions' legal regime was ''sufficiently robust'' for effectively waging the Global War on Terrorism. The Schlesinger panel also stated, ''The Legal Adviser to the Chairman, Joint Chiefs of Staff and many service lawyers agreed with'' the State Department.

Judge Gonzales, on the other hand, argued that the situation America faced after September 11th rendered ''obsolete Geneva's strict limitations on questioning of enemy prisoners . . .'' and that other provisions of the Convention were rendered ''quaint.''

Judge Gonzales's January 25, 2002, memo could have simply advised that the protections of the Geneva Conventions do not apply to al-Qaida and Taliban fighters, if that were his conclusion. He went beyond that. Instead he denigrated the Geneva Conventions where they do apply.

To say that the Geneva Conventions are obsolete and quaint is wrong and dangerously so. Judge Gonzales tried to evade the impact of his own memo when he told the Senate Judiciary Committee at his confirmation hearing, ''Contrary to reports, I consider the Geneva Conventions neither obsolete nor quaint.'' But these were not ''reports.'' These were Judge Gonzales's own words in his own memo. The tone set by those words and the approach of that memo helped put in place an environment which spawned prisoner abuse. It was a tone that was heard around the world.

Consistent with Judge Gonzales's January 2002 memo, the President determined on February 7, 2002, that the Geneva Convention on the Treatment of Prisoners of War does not apply to the conflict with al-Qaida, and that because Taliban combatants were ''unlawful combatants'' they were not entitled to POW status under the Convention and would not be protected by the Geneva Conventions. The President determined instead that ''to the extent appropriate and consistent with military necessity,'' detainees would be treated ''in a manner consistent with the principles of Geneva.''

The President's February 7, 2002, determination created a legal vacuum—a never-never land for detainees in our custody. His determination and implementing procedures did not identify which principles of the Geneva Conventions would continued to be followed. Furthermore, the President's decision that the principles of Geneva would be followed was qualified by the words ''to the extent appropriate and consistent with military necessity,'' a qualification so broad and vague as to render the pledge to follow the principles of Geneva nearly meaningless. Major General George Fay, who investigated detainee abuses by military intelligence personnel at Abu Ghraib prison, found in his August 2004 report that, ''Specific regulatory or procedural guidance concerning either 'humane' treatment or 'abuse' was not available in the context of [the Global War on Terrorism] and the recently promulgated national policies.'' The vacuum General Fay referred to was created at the top. Judge Gonzales has a major role in that creation. He was present at the creation.

Judge Gonzales has adamantly denied any relationship between his advice to the President, and the Presidential decision which followed, and the horrendous abuses at Abu Ghraib prison. But the Defense Department's own investigations found a connection to the abuses in Iraq.

The Schlesinger panel found that the Command Headquarters in Iraq, Combined Joint Task Force-7, used ''reasoning from the President's Memorandum of February 7, 2002'' in approving the use of additional, ''tougher'' interrogation techniques beyond those approved under existing Army doctrine. Major General Fay's August 2004 report said that ''National policy and DOD directives were not completely consistent with Army doctrine'' on detainee treatment and interrogation, ''resulting in CJTF–7 interrogation . . . policies and practices that lacked basis in Army interrogation doctrine.'' He added that ''as a result,'' interrogators at Abu Ghraib used non-standard interrogation techniques that ''conflicted with other DOD and Army regulatory, doctrinal and procedural guidance.''

Clearly, there was a change in signals from the top about the treatment and interrogation of captured adversaries. This, combined with the failure of ''national policies'' to provide specific guidance on ''humane'' treatment, helped produce a more lawless environment which contributed to the mistreatment of enemy prisoners at Abu Ghraib and elsewhere.

The second point at which Judge Gonzales played a central role was the administration's effort to push the limits regarding permissible interrogation techniques for use against enemy prisoners. It was Judge Gonzales who requested the flawed legal memorandum by the Justice Department's Office of Legal Counsel, or OLC, interpreting the scope of the Federal anti-torture statute, 18 U.S.C. 2430–2430A. Congress had enacted this criminal statute in 1994 to implement U.S. obligations as a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The anti-torture statute prohibits any person from committing or attempting to

commit torture, which is defined in the statute as ''an act . . . under the color of law specifically intended to inflict severe physical or mental pain or suffering . . . upon another person within his custody or physical control.''

But the OLC memorandum provided in response to Judge Gonzales's request, the so-called ''Torture Memorandum'' of August 1, 2002, significantly weakened the prohibition in the statute by asserting in effect that ''Physical pain amounting to torture,'' doesn't count as torture unless it is ''equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily functions or even death.'' Mental pain or suffering amounting to torture doesn't count unless it causes ''significant psychological harm of significant duration,'' that is, months or years. The memorandum also interpreted the ''specific intent'' requirement in the statute to mean that even if a person knows ''that severe pain will result from his actions, if causing such harm is not his objective,'' then he is not guilty of torture.

The legal reasoning employed by the Office of Legal Counsel has no basis in military law, the legislative history of the Federal anti-torture Statute, or the Convention Against Torture.

More importantly, it should have been apparent when the OLC Memorandum was received by Judge Gonzales in the summer of 2002 that its definition of torture, as well as other sections, were flawed. At his confirmation hearing, Judge Gonzales was asked, ''Wasn't it obvious to you that someone can suffer physical pain without being in danger of organ failure? . . . Wouldn't the removal of fingers, for example, fall outside the [memorandum's] definition of torture . . . ?'' Judge Gonzales responded, ''Obviously, things like cutting off fingers, to me that sounds like torture. . . .'' That is the Judge Gonzales at his confirmation hearing—very different from the Judge Gonzales in 2002, when the tone was set in memos to him and from him.

When the Torture Memorandum was finally leaked to the press in early June 2004, it shocked the American people and the world. The administration quickly disavowed the memorandum and the Department of Justice undertook to review all of the OLC's legal advice relating to interrogations. Finally, on December 30, 2004, shortly before Judge Gonzales's nomination hearings, the OLC issued a legal opinion superceding the 2002 memorandum.

What impact did the Office of Legal Counsel's August 1, 2002 Memorandum have on the interrogation of enemy prisoners in U.S. custody during the nearly 2 years that it was official U.S. policy? The investigative reports received by the Armed Services Committee show that OLC's legal opinions provided the legal framework for the Defense Department's approval of a number of additional interrogation techniques, beyond those in standard Army doctrine, for use with enemy combatants at Guantanamo Bay. These additional, more aggressive techniques eventually migrated to Afghanistan and Iraq, and contributed to the prisoner abuse at Abu Ghraib.

On December 2, 2002, Secretary Rumsfeld approved the use of a range of ''aggressive'' non-doctrinal interrogation techniques at Guantanamo Bay, including stress positions, isolation for up to 30 days, 20-hour interrogations, nudity and use of dogs to induce stress. However, in response to concerns raised by the Navy General Counsel, 1 month later Secretary Rumsfeld rescinded his approval and in January 2003 established an internal Defense Department Working Group to review interrogation techniques for use in the Global War on Terrorism.

According to the Schlesinger panel report, this Defense Department Working Group ''relied heavily'' on the OLC's legal opinions for the legal framework for its review of interrogation techniques. Much of the legal analysis in the Working Group's April 4, 2003 report was drawn directly from the OLC Torture Memorandum.

The Defense Department Working Group reviewed and recommended approval of 35 interrogation techniques for use against unlawful combatants outside the United States, all of which it deemed legally available subject to certain conditions. Eighteen of these were techniques not found in the standard Army doctrine of Field Manual 34–52. Of this group, the Working Group designated nine to be ''exceptional'' techniques that should only be used with the approval of the Secretary of Defense. These included isolation, prolonged interrogations, sleep deprivation, nudity, and increasing anxiety by the use of a detainee's aversions, for example, the use of dogs. Many of these are the same techniques that had been approved by Secretary Rumsfeld for use at Guantanamo Bay in December 2002.

Secretary Rumsfeld issued a new memorandum on April 16, 2003, approving 24 interrogations techniques for use on unlawful combatants at Guantanamo Bay, 7 more than contained in standard Army interrogation doctrine. Even though Secretary Rumsfeld approved only one ''exceptional'' technique from the Working Group's report, specifically isolation, other ''exceptional'' interrogation techniques recommended by the Working Group migrated to Afghanistan and Iraq. According to the report of General Fay, military officers at the Combined Joint Task Force Headquarters in Iraq, CJTF–7, ''relied heavily'' on Guantanamo Bay operating procedures, provided by Major General Geoffrey Miller, in revising CJTF–7 interrogation policies for the conflict in Iraq.

Major General Fay found that, ''By October 2003, interrogation policy in Iraq had changed three times in less than thirty days and it became very confusing as to what techniques could be employed and at what level non-doctrinal approaches had to be approved.'' He went on to say that interrogation techniques beyond those in Army doctrine ''came from documents and personnel in Afghanistan and Guantanamo. The techniques employed in JTF–GTMO [Joint Task Force-Guantanamo] included the use of stress positions, isolation for up to thirty days, removal of clothing, and the use of detainees' phobias.''

So the prisoner abuse and mistreatment at Abu Ghraib, can be traced back to the various Defense Department memoranda approving ''exceptional'' interrogation techniques and these Defense Department memoranda relied, in turn, on the legal framework set up in the opinions of the Justice Department's Office of Legal Counsel, including the August 1, 2002 Memorandum. As the Defense Working Group report stated regarding the standards applied in evaluating specific interrogation techniques, ''Generally, the legal analysis that was applied is that understood to comport with the views of the Department of Justice.''

The OLC August 1, 2002 memorandum was addressed to Judge Gonzales. In his testimony, Judge Gonzales initially said that he was doing his ''job as Counsel to the President to ask the question'' regarding the definition of torture. However, when pressed on the issue later on in the hearing, Judge Gonzales claimed that he couldn't remember if he requested the memo, even though, again, the memo says it is addressed to him and was requested by him.

At his confirmation hearing, Judge Gonzales disclosed that discussions leading to the August 2002 memorandum on torture took place in his office, that he participated in those discussions, and that he gave his views to the OLC, although he could not recall at the hearing what those views were. When I asked Judge Gonzales in post-hearing questions to consult with his staff or other documents relating to his views at the time of these discussions to refresh his recollection, he declined to do so, claiming that to do so would involve ''predecisional deliberations'' that he was not free to disclose.

Judge Gonzales was asked at his confirmation hearing whether he agreed with the definition of torture in the August 2002 memorandum on torture. He replied, ''I don't recall today whether or not I was in agreement with all of the analysis, but I don't have a disagreement with the conclusions then reached by the Department.'' Later in the hearing, he said, ''it's a position that I supported at the time.'' In other words, Judge Gonzales concurred in the torture definition and the other legal conclusions in the August 2002 memo at the time it was circulated. So, it was only after the memorandum became public and elicited outrage that the OLC withdrew it, and the White House, with Judge Gonzales out front, withdrew support.

When asked during his confirmation hearing what were his views on whether specific interrogation techniques might constitute torture within the meaning of our laws, Judge Gonzales was evasive. He acknowledged that he discussed specific interrogation techniques with the OLC. He said that, ''As Counsel to the President, my job was to ensure that all authorized techniques were presented to the Department of Justice, to the lawyers, to verify that they met all legal obligations, and I have been told that that is the case.'' He also said, ''It is of course customary . . . that there would be discussions between the Department and the Counsel's Office about legal interpretation of, say, a statute that had never been interpreted before, one that would be extremely emotional, say, if you're talking about what are the limits of torture . . . . And so there was discussion about that.''

When asked what his views were on specific techniques, however, he did everything but give a direct answer. In response to a written question about what methods he considered to be torture Judge Gonzales wrote, ''I do not think it would be prudent for me to address interrogation practices discussed in the press and attempt to analyze them under the prohibitions of [the federal anti-torture statute]. . . .'' At another point he said, ''we had some discussions [about specific interrogation techniques] . . . [a]nd I can't tell you today whether or not I said, 'That's offensive. That's not offensive.'''

Judge Gonzales was also repeatedly evasive and nonresponsive to Senators' requests for clarifications regarding his record on specific interrogation techniques. I submitted post-hearing questions to Judge Gonzales asking him to refresh his recollection by consulting with his staff. He declined. When asked by other Senators to refresh his recollection by examining relevant documents, Judge Gonzales responded that he had not conducted a document search. Period. To my knowledge, he has since taken no actions to obtain or review documents that could refresh his recollection.

One of the reasons given by Judge Gonzales for his refusal to provide the Senate with requested documents relating to his views on torture and specific interrogation techniques was that such disclosures would involve ''predecisional deliberations that I am not at liberty to disclose.'' For instance, when asked how many meetings took place prior to development of the 2002 memo and who was present, he gave that dismissive answer. When asked whether any of his staff attended the meetings or recalled his reactions to the legal issues, Judge Gonzales again for the same reason. His stonewalling of legitimate requests for information under the claim of some newly-created ''predecisional deliberation'' privilege to withhold information relevant to the Senate confirmation process, is totally unacceptable. It is extraordinary that the ACLU and other groups have had more success in obtaining administration documents through the Freedom of Information Act than the U.S. Senate has through the confirmation process. Does the U.S. Senate have to file Freedom of Information requests to get information from nominees?

The Senate has a right and a responsibility under its constitutionally assigned role in the nomination process to know what positions Judge Gonzales took with respect to any specific interrogation techniques which violated our laws. In his testimony and responses for the record, Judge Gonzales repeatedly refused to say what position he had taken on certain interrogation techniques, including simulated drowning (''waterboarding''), stress positions, sexual humiliation, or use of dogs, as constituting either torture or cruel, inhuman or degrading treatment. He claims it is the responsibility of the Justice Department to make such determinations. How Judge Gonzales addressed those issues and his views on these issues go to the very heart of the matter before us—whether the Senate should give consent made necessary by the Constitution before he assumes the office of Attorney General.

In the end, we are left with Judge Gonzales's memo stating that provisions of the Geneva Conventions have been rendered ''obsolete'' and other provisions ''quaint.'' We are left with his statement that he supported the legal position that physical pain amounting to torture is only prohibited if it is equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death. We are left with his insistence that he cannot remember important meetings and discussions relative to specific interrogation techniques, while refusing to take steps to refresh his recollection.

The record is clear that Judge Gonzales played a central role in the development of U.S. legal policy in 2002 that set the stage for torture and inhumane treatment.

By undermining the importance of the Geneva Conventions and by refusing to acknowledge ''waterboarding,'' stress positions, sexual humiliation, or use of dogs, as violations of our anti-torture statute, Judge Gonzales falls short of the high standards needed in an Attorney General, whose office is at the pinnacle of the rule of law.

Finally, just as there must be accountability for those who carried out the acts of detainee abuse and mistreatment, there must be some accountability for the people who set the policies and established the legal framework that set the stage for those abuses.

To vote in favor of confirmation of Judge Gonzales for Attorney General would be to mean endorsement of the discredited legal theories which have endangered the safety of our Armed Forces, caused severe damage to the moral standing of the U.S. and to our efforts to promote freedom throughout the world.

Our troops deserve better. The American people deserve better. For these reasons, I will vote against the nomination of Judge Gonzales.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Is there a time allocation, as a matter of inquiry, Mr. President?

The PRESIDING OFFICER. The two sides are dividing 8 hours today.

Mr. KENNEDY. I will not take long, but I welcome the opportunity to address this issue in the final moments before the Senate will make an extremely important judgment.

We face a fundamental choice in the Senate today. The nominee for Attorney General of the United States is a good person, with an extraordinary life story that reflects, in many ways, the best of the American dream. If we were voting on that story, Mr. Gonzales would be confirmed in an instant.

But our vote today is not a vote on whether he is a good person or whether we admire and respect his life story. It is a vote on whether his performance in the highest reaches of our Government has shown that he should be entrusted with the Department of Justice. It is a vote on whether we mean what we say when we express our commitment to America's fundamental ideals, for abhorrence to torture is a fundamental value, and the world is watching us and watching what we do on this nomination.

Torture is an issue that cannot be wished away. Our attitude toward torture speaks volumes about our national conscience and our dedication to the rule of law.

Mr. Gonzales was at the heart of the Bush administration's notorious decision to authorize our forces to commit flagrant acts of torture in the interrogations of detainees in Afghanistan, Guantanamo, and Abu Ghraib. The war room in the White House became the torture room. Under this policy, our own agents burned detainees with lighted cigarettes. They bound them hand and foot and made them lie down in their own urine and feces. They administered forced enemas. They exploited our own female agents by ordering them to humiliate and degrade their male Muslim prisoners. They terrorized prisoners with unmuzzled dogs.

How did this start? Where did it start? Who is responsible?

We do not know everything because the administration refuses to come clean. But what we do know gives us some clear answers. And those answers should disqualify Mr. Gonzales from becoming Attorney General.

It started when those who wanted to use extreme methods of coercion approached the White House and asked for legal cover. They went to the Office

of the White House Counsel, the President's lawyer, Mr. Gonzales.

Mr. Gonzales went to Jay Bybee in the Justice Department and asked him for a legal opinion on torture. Mr. Gonzales helped Mr. Bybee write that opinion. And when Mr. Gonzales received it, he thought it was appropriate, and he allowed it to be disseminated throughout the Government. Its words appeared in the Defense Department's guidelines for military interrogation. Its standards were used by the Justice Department to advise the CIA and other agencies on the legality of extreme methods of interrogation.

When Mr. Gonzales received the Bybee memorandum he did not ask for it to be rewritten; he did not object to it; he did not ask for a second opinion. He agreed with the conclusions.

And so for over 2 years the Bybee-Gonzales memorandum—which shamefully narrowed the definition of torture almost to nothingness—was a roadmap to torture.

In the year since we first heard about prisoner abuses, no one has suggested any other source for our torture policy. If President Bush wants to take responsibility, let him do so. If Secretary Rumsfeld wants to take responsibility, let him do so. If the CIA wants to take responsibility, let it do so. But so far, they have let Mr. Gonzales take full responsibility, and the facts make clear that he was at the epicenter of the government's torture policy.

Many Senators, many military lawyers, and lawyers throughout the world knew the minute they saw the Bybee memorandum when it first came to light—2 years after it was written—that it was a political document, not a legal document. It was a document designed to reach a preordained result, not a document to say what the law really is.

Dean Harold Koh of Yale Law School, a former official in both the Clinton and Bush administrations, told our committee that it was ''the most clearly legally erroneous opinion'' he has ever read.

Yet it remained the administration's policy on torture for over 2 years.

In our Senate committee, Senator GRAHAM called the Bybee Gonzales memorandum, ''a lousy job''. On the floor Tuesday, Chairman SPECTER called it unacceptable and wrong.

Yet Mr. Gonzales did not share that view, and for more than 2 years, the memorandum remained in force as the administration's roadmap to torture.

The administration rewrote the law, twisted legal interpretations, and turned a blind eye to the predictable consequences. This set in motion events that have stained our Nation by authorizing and encouraging the commission of cruel, inhumane, and degrading acts, including torture.

The issue is now beyond dispute. Abu Ghraib tells us some of the truth. The FBI e-mails tell us some of the truth. The many Defense Department reports tell us some of the truth. There are too many reports of torture and abuses committed by too many people to be dismissed as the work of a few bad apples on the night shift, as the administration has tried so hard to do.

The Defense Department is now investigating over 300 cases of torture, sexual assault and other abuse of detainees. When the head of the Defense Intelligence Agency reports that DIA personnel were threatened and confined to their base by Special Forces agents because they had seen and tried to report interrogation abuses, we as a nation have lost our way. When senior FBI agents are forced to complain about abuses committed in their presence, we as a nation have lost our way.

It happened on Mr. Gonzales's watch, but that is only the beginning. It happened in Mr. Gonzales's office. Mr. Gonzales was an active participant. He was the principal enabler. Yet Mr. Gonzales can't remember much of any of this. He won't search for his torture-related documents. The White House won't give us the documents that exist. Yet, on this incriminating record, his supporters continue to ask us to look the other way, and ignore his central role in this scandal.

It is a sad day for the Senate, for our constitutional role in our system of government, and for our responsibility to advise and consent on presidential nominations, if we consent to the nomination for Attorney General of the United States of a person who was at the heart of the policy on torture that has so shamed America in the eyes of the whole world and has so flagrantly violated the values we preach to the world.

Surely the administration can find a person who is capable, who is trusted, and who has not had such a central role in undermining our Nation's fundamental dedication to the rule of law.

The President had countless candidates to choose from. Yet of all the respected men and women available, he chose Mr. Gonzales. He sent a message to the country and the world that the rule of law came in a distant second to his desire to reward Mr. Gonzales for his unquestioning loyalty.

The debate today is what we in the Senate do about it now. We know the country is engaged in a continuing, public debate about values. We have debated ''family values,'' ''religious values,'' ''social values,'' and ''fundamental values.'' All too often, the words are used as code words for a political agenda.

All too often, we shy away from having a true discussion about our values as a nation, our character as a society, the legacy we wish to leave our children; and our role in the world community. Too often, stating noble words becomes a cover for committing ignoble acts.

Today's debate and today's vote give us the opportunity to demonstrate our commitment to our core values. We need to show that our commitment to ''human dignity'' is a reality, not a slogan. We need to show that respect for law is an obligation, not an option.

We are a nation of laws, not hypocrites. This country is strong, and our constitutionl system has endured, because it permits us to do great things and still ensure that we treat people fairly and humanely. To suggest that the two are mutually exclusive is a failure of faith in the American people, and in our proud tradition of justice. We respect international law. If we do not, who will? The provisior1s of the Geneva Conventions and the Convention Against Torture serve us well, because they protect our own soldiers who go off to war. They proclaim that we are more than just the sum of our fears.

Mr. Gonzales's supportes claim it's just politics if we vote against him, but statesmanship if we vote for him. But on this record the only reason to vote for him is politics. Conscience and principle demand that we vote against him. All of our statements about values will have a hollow ring if we ignore this record and promote Mr. Gonzales to the position of Attorney General of the United States.

We have a choice—do we stand for the rule of law, or do we stand for torture? This vote will speak volumes about whether our specific actions in the Senate match our lofty rhetoric about fundamental values. That is why we should vote to reject this nomination.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the decision on whether to vote to confirm Alberto Gonzales to be the next Attorney General of the United States has been difficult. As all of my colleagues know, I believe that Presidents are entitled to a great deal of deference in their cabinet nominations. I have voted in favor of a number of this President's nominees, including the current Attorney General, with whom I had serious disagreements on matters of policy and general ideology. My votes may not have always pleased my political supporters or my party's leadership. But in carrying out my part in the constitutional scheme, as one who is asked to advise on and consent to a President's nominations, I am guided by my conscience, and by the history and practices of the U.S. Senate. Rejecting a Cabinet nominee is a very rare event. The decision to do so must never be taken lightly.

After a great deal of thought and careful consideration, I reached the conclusion that I could not support Judge Gonzales's nomination. Let me take a few minutes to explain my decision.

The Attorney General of the United States is the Nation's chief law enforcement officer. The holder of that office must have an abiding respect for the rule of law. A formative experience for me, and for many of my generation, was the Watergate scandal, and particularly the Saturday night massacre

on October 20, 1973. On that night, Attorney General Elliot Richardson and his deputy William Ruckelshaus both resigned from office rather than carry out President Nixon's order to fire special prosecutor Archibald Cox. Those acts of courage remain for me a shining example of the role that the Attorney General plays in our government. They give me the unshakeable conviction that his or her ultimate allegiance must be to the rule of law, not to the President.

As Judge Gonzales himself said as he stood next to the President on the day he was nominated

The American people expect and deserve a Department of Justice guided by the rule of law.

I am pained to say that Mr. Gonzales's performance as White House Counsel and, particularly, his appearance before the Judiciary Committee and his responses to our questions, have given me grave doubts about whether he meets that test.

Judge Gonzales too often has seen the law as an obstacle to be dodged or cleared away in furtherance of the President's policies.

Judge Gonzales has held the position of White House Counsel since the beginning of this administration and through a very difficult and challenging period in our history. The response of the administration to the September 11 attacks and the fight against terrorism have brought some very difficult legal issues to his desk. Some of these issues touch on the very core of our national identity. What kind of nation are we going to be during times of war? How will we treat those we capture on the battlefield? How will we live up to our international treaty obligations as we fight terrorism?

Time after time, Judge Gonzales has been a key participant in developing secret legal theories to justify policies that, as they have become public, have tarnished our Nation's international reputation and made it harder, not easier, for us to prevail in this struggle. He requested and then disseminated the infamous Office of Legal Counsel memo that for almost 2 years, until it was revealed and discredited, made it the position of the Government of the United States of America that the International Convention Against Torture, and statutes implementing that treaty, prohibit only causing physical pain ''equivalent in intensity to the pain accompanying serious physical injury; such as organ failure, impairment of bodily function, or even death.'' Under that standard, the images from Abu Ghraib that revolted the entire world would not be considered torture, nor, according to some, would the shocking interrogation technique called ''waterboarding.''

Judge Gonzales advised the President that he could declare the entire legal regime of the Geneva Conventions inapplicable to the conflict in Afghanistan. Secretary of State Powell rightly pointed out the danger of this course, but Judge Gonzales persisted. This theory could actually have given greater legal protection to terrorists, by taking away a key part of the legal regime under which war crimes can be prosecuted. The idea that the Geneva Conventions protect terrorists who commit war crimes, which Judge Gonzales repeated in his hearing, is a dramatic misunderstanding of the law, and it was very troubling to hear it from the person who would coordinate our legal strategy in the fight against terrorism.

Judge Gonzales was also an architect of the administration's position on the legal status of those it called ''enemy combatants,'' a position that was soundly rejected by the Supreme Court of the United States last year.

In all of these areas, Judge Gonzales served as the President's lawyer, and facilitated the President's policies. I believe that he failed the President and the Nation badly. But these past mistakes need not have been conclusive in my assessment of his suitability for the office of Attorney General. For example, I also have serious concerns about the role that the national security adviser—and now Secretary of State—Dr. Condoleezza Rice, played in crafting and implementing the administration's badly flawed foreign policy. But I do not think that taking part in a policy I strongly oppose is sufficient grounds for me to oppose a cabinet nomination. As I have indicated, the President—any President—is entitled to be advised by those who share his beliefs and confidence.

Had Judge Gonzales in his testimony before this Committee recognized the serious problems with the judgments he made on these issues and given convincing assurances that he understands that his new role will require a different approach and a new allegiance to the rule of law, I might have been convinced to defer to the President once again. Attorney General Ashcroft, for example, was unequivocal in expressing his commitment, under oath, to enforcing laws with which he disagreed as a Senator—laws and court decisions that he, I think, abhored, but he made it very clear that his role was to uphold the law as it stands.

But Judge Gonzales's appearance before the Judiciary Committee was deeply disappointing. When given the opportunity under oath to show that he would be adequately committed to the rule of law as our Nation's chief law enforcement officer, he failed to do so. He indicated that the infamous OLC torture memo is no longer operative, but that he does not disagree with the conclusions expressed in it. He reiterated erroneous interpretations, of the effect that applying the Geneva Conventions to the war on Afghanistan would have on the treatment of members of al-Qaida captured in combat. Most disturbingly, he refused time after time to repudiate the most far-reaching and significant conclusion of the OLC memo—that the President has the authority as Commander-in-Chief to immunize those acting at his direction from the application of U.S. law.

This failure goes directly to the question of his commitment to the rule of law. Under our system of government, the Attorney General of the United States may be called upon to investigate and even prosecute the President. We cannot have a person heading the United States Department of Justice who believes that the President is above the law. I and other members of the Judiciary Committee questioned Judge Gonzales closely about this issue. He hid behind an aversion to hypothetical questions, he conjured up his own hypothetical scenarios of unconstitutional statutes, but he simply refused to say, without equivocation, that the President is not above the law.

On the torture issue in particular, Judge Gonzales repeatedly told us that he opposes torture and that the President has never authorized torture. Thus, he indicated, the question of whether the President acting as Commander in Chief can authorize torture has never and will never come up. I certainly hope that we can rely on those assurances, but the Founders of this Nation designed a system where even the President is bound by our laws—precisely so that we would not have to rely on trust alone that the President will act in accordance with them. I think the Judiciary Committee, and the American people, deserved to hear whether the next Attorney General agrees that the President has the power to disobey laws as fundamental to our national character as the prohibition on torture. Judge Gonzales refused to address this question unequivocally, and that left me deeply troubled.

Mr. President, Judge Gonzales has a compelling personal story, and many fine qualities as a lawyer. If he is confirmed by the Senate, there are many issues on which I hope we can work together for the good of the country. But I cannot support his nomination. Not because he is too conservative, or because I disagree with a specific policy position he has taken, but because I am not convinced that he possesses the abiding respect for the rule of law that our country needs in these difficult times in its Attorney General. I will vote ''No.''

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. Are we in Republican time at this time?

The PRESIDING OFFICER. That is correct.

Mr. THOMAS. Mr. President, I am pleased to hear that we may bring this

debate to a conclusion shortly. Certainly it seems to me we have had plenty of time to talk about it. We have heard the same things over and over. Of course, everyone has a perfect right to have a different point of view, and I understand that. They also have a right to share that point of view. However, there does come a time when we ought to come to the snubbing post and vote, and I hope that can happen soon.

I come to the floor to express my support for the nomination of Alberto Gonzales. It occurs to me the President should have the right and does have the right and the responsibility to surround himself with people with whom he can work the best, people who reflect his point of view. After all, we are talking about a manager surrounding himself with people who will carry out his programs. Obviously, he is going to have people who fit that order.

If something is found that is disingenuous or disagreeable about the nominee, of course, it is legitimate to talk about that. I do think it is interesting, however, that people from the other side of the aisle on the Judiciary Committee have gotten up and talked about all these difficult issues on the memos. The fact is, the same committee members on this side of the aisle have not mentioned that at all. One has to think if there is a little bit of politics here. That would not be a brand new idea, of course.

It is time to go forward. Certainly lots of people have had lots of good things to say about Judge Gonzales. They talked about his legal career, which is very impressive. He entered Harvard Law School. That is a good thing. He certainly has had military service, which does not have any direct involvement with this job, but it is something he should be recognized for having done. He served in Texas as the secretary of state. He was a distinguished jurist in Texas, and the people from Texas from whom we hear are all very complimentary of what has happened there with respect to Judge Gonzales.

We ought to consider those comments from people such as Senator CORNYN who worked with him in the same government in Texas and who has nothing but good things to say. Certainly no one has suggested that this jurist is one who is an activist judge who is seeking to make law as opposed to interpret it. That is one of the questions we have had, of course, in this whole series of debates, but it does not seem to be part of this one.

Judge Gonzales has been complimented for issuing his opinions based on the facts, on interpretation of the law rather than his personal interests which, of course, is one of the keys to a successful judgeship.

As I say, it is perfectly legitimate for people to have a different point of view. However, there is a limit to how long we need to keep talking about it. We have been here all week. I hope now most of us can come to the decision that it is time to move on.

I frankly do not know the judge. I have not worked with him, as many people have. But I was impressed listening to those who have, particularly about his Texas experience. He certainly seems to have worked on cases diligently and has done a great job. He has not been influenced outside the courtroom. Those are excellent qualifications for someone in this job.

Certainly, there has also been the opportunity to serve with the President as White House Counsel. It is a very important job that has given him experience in Federal Government so he can move right into this position. He remained steadily at the helm, despite the tough times we had during 9/11 and following in terms of terrorism in which this Department and these judges and attorneys had the real challenge of what to do to deal with terrorism. He was instrumental in coordinating the law enforcement efforts post-9/11 and ensuring the rights of Americans at the same time.

It is interesting to have reports on what Mr. Gonzales has done with homeland security consistent with the Constitution and the laws. He demonstrated independence as Counsel at the White House, resisting from time to time the Department of Justice.

The transition from where he is as White House Counsel to the Justice Department will be a relatively easy one. The Justice Department is very interesting. A very good friend of mine has been Assistant Attorney General for Public Lands, a gentleman who at one time was, in fact, my staff director. He has about 700 people who work for him. It is a tough job and one that does require a background and knowledge.

As I read it—I am not on the committee of jurisdiction but those who are from this side have said he demonstrated a will to honor and uphold the Constitution, which, of course, all of us need to do. He is independent enough to make decisions that have to be done independently, and that is excellent.

Again, we will have differences of view. That is all right. We have differences of view on almost everything. It is time to draw the line. It is time to go. It is time to get this job done.

I certainly urge support for Judge Gonzales and hope we can go forward and give him an opportunity and then give us an opportunity to move forward with what we ought to be doing.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise today because I want to address the allegation that we have heard in this Chamber over the last several days that the debate around the nomination of Judge Gonzales to be the next U.S. Attorney General is somehow occurring because of the fact that he is Hispanic. I want to let the President, the Members of this Chamber, and the people of the United States know that in my view, that is not at all the case, and it is a notion that we should, in fact, reject. We should reject it because it is divisive.

Instead, what we ought to be doing in the United States of America is moving forward with a sense of unity and a celebration of diversity that can unite us as a country.

The fact is, the debate that has occurred in this Chamber over the last several days concerning Judge Alberto Gonzales is an appropriate debate. We do not have a king in these United States. We have a President who appoints, subject to the advice and consent of the Senate. And for the Senate to have engaged in the debate and dialog, as it has over the last several days, is the appropriate constitutional role for this Senate.

The questions that have been raised about Judge Gonzales are questions that are very serious about international law and international accords and the laws of these United States.

For my colleagues who have stood up and who have raised questions about Judge Gonzales's role with respect to these issues, they have been carrying out their constitutional duty. I believe that constitutional duty should be respected.

I, for one, after doing my constitutional duty and reviewing the record and meeting with Judge Gonzales, talking to him about civil rights, talking to him about his opposition to torture, concluded that I would cast my vote in support of Judge Gonzales's nomination, and I will do so in a few minutes. That vote will not change. But I think it is a mistake for this Chamber to allow the race card of being Hispanic to be used to destroy or erode the institutions that we have in the Senate.

As I say that, I say it because I have seen the journey of civil rights in America. That journey of civil rights in America is one which has taken us a long time to get to where we are today. When we think about the history of our country, for the first 250 years from the founding of Plymouth Rock and Jamestown to the civil war, we were a country that divided ourselves by the race of our skin, so that if one was one race, they were able to own as property members who were from another race. It took a very bloody civil war—in fact, the bloodiest of all wars that this country has been engaged in—to end that system of slavery and to usher in the 13th, 14th and 15th amendments that said we are equal in this Nation.

Notwithstanding that bloodiest of wars and notwithstanding the fact that we had amended the Constitution in those ways, it took another 100 years for us to legally end the system of segregation in this country because it was not until 1954 and the decision written by Justice Warren in Brown v. The Board of Education that we said that segregation was wrong and that we would not tolerate it under our system of law.

As we have evolved in our relationships within groups over the last half a

century, there have been leaders, both Democrats and Republicans, who have embraced the doctrines of diversity and an inclusive America. In the 1960s, that effort was lead by Democrats, such as John Kennedy, Robert Kennedy, and Lyndon Johnson. It was the Civil Rights Act of the 1960s that created opportunities for all of us in America to recognize that we are, in fact, one Nation.

But it was not just the Republicans or the Democrats who were in the lead in that role. There were also others who were involved, Republicans like President Gerald Ford. A few years ago, President Ford wrote an article in the New York Times which was entitled, ''An Inclusive America.'' In that article in the New York Times, President Ford talked about the importance of bringing all of our community together and giving everybody an equal opportunity, regardless of their background.

So as we move forward to making this decision on Judge Gonzales, which I anticipate and fully expect is going to be a decision to affirm his nomination as the Attorney General of the United States of America, let us not use this moment to divide this country and let us not use this moment to divide this Chamber.

My view is that those Democratic colleagues of mine, who are people I admire, are very much champions of diversity and champions of civil rights and, in my view, they were exercising their appropriate role and their duty to make sure that the scrutiny of the Senate of one of the President's nominees was, in fact, exercised.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I rise to speak in regard to the nomination of Judge Gonzales to be the Attorney General of the United States. Since this is about justice, in reviewing the record on Judge Gonzales and in considering what my own conclusion about it would be, particularly since it was all about justice, I thought I should try to reach a result that seemed just to me. Each of us, in the fullness of our heads and hearts, has to decide what is appropriate.

I was reminded of that famous saying from the Bible: Justice, justice shalt thou seek. I remember asking a teacher of mine once why the repeat of the word ''justice,'' and I was told, well, it not only means you should pursue justice but you should pursue it in a just way.

I have had that in mind as I have considered this nomination and others over my 16 years in the Senate. Throughout my tenure I have voted on hundreds of Presidential nominations. In each case I have adhered to a broadly deferential standard of review. To me, that seems to be the just process to follow.

As I explained in my very first speech on the Senate floor which, for better or worse, was in regard to the nomination of John Tower to serve as Secretary of Defense, a nomination which I opposed, the history of the debates of the constitutional convention makes clear to me that the President is entitled to the benefit of the doubt in his appointments to his Cabinet. The question I concluded I should ask myself in considering nominees is not whether I would have chosen the nominee but, rather whether the President's choice is acceptable for the job for which the nominee has been chosen.

That, obviously, does not mean the Senate should always confirm a President's nominees. Were that the case, the Framers would have given the Senate no role in the appointments process, no power to advise and consent. Instead, the Senate's constitutional advice and consent mandate obliges us to serve, if you will, as a check, in my opinion, at the margins on the President's power to appoint, a power that a sitting President wins by virtue of his selection by the people of the country.

As I put it in my statement on Senator Tower's nomination, I believe this requires this Senator to consider several things: First, the knowledge, experience, and qualifications of the nominee for the particular position for which he or she has been nominated; second, the nominee's judgment as well as his personal behavior; third, the nominee's ethics.

In unusual circumstances Senators can also, it seems to me, consider fundamental and potentially irreconcilable differences of policy between the nominee and the mission of the agency he or she is called upon to serve.

As a result of that personal process that I follow in nominations, on a very few occasions—I would guess, although I haven't looked back, maybe just over 5 during my 16 years in the Senate—I have determined that the views of certain nominees, usually on one end of the political spectrum or the other, fell sufficiently outside the mainstream to compel me to oppose their nominations. In other words, I give a presumption in favor of the nominee unless there is a reason to decide otherwise.

In this case I have met with Judge Gonzales, I have reviewed his record throughout his career, I am familiar with his life story, I have reviewed the proceedings before the Judiciary Committee, the comments made by many on the committee in describing their votes, his testimony there, and I have concluded that this nominee deserves to be confirmed and therefore I will vote to confirm the nominee.

I need not labor on the details of the first three points—knowledge, experience, qualifications, judgment and personal behavior, and nominee's ethics. I believe this nominee, as everyone said, including those who are opposed to the nomination, has a remarkable life story that speaks to his strength, to his balance, to his values. He has acted under pressure and gives me the confidence that he would do the same as Attorney General.

He has spoken quite eloquently in his testimony before the Judiciary Committee that he understands his accountability, his first accountability as Attorney General will be to the Constitution and to the people of this country. I know there are some who question his independence of opinion and judgment because he has had a close relationship with the President of the United States. But, as others before me in this debate on the Senate floor about this nomination have said, more often than not a President chooses as Attorney General someone close to him. President Kennedy obviously chose his brother Robert, who was a great Attorney General. President Reagan, if I remember correctly, chose his personal lawyer to be his Attorney General. President Carter chose Griffin Bell, who was extremely close to him, from Atlanta. And so it goes throughout most of our history.

It seems to me, as I followed the debate in the committee and on the floor, that there are two or three elements that have troubled my colleagues enough to decide to vote against this nomination. I believe in fairness I have to consider these seriously, but consider them in the context of Judge Gonzales's entire career. The two most significant points of contention are Judge Gonzales's work as White House Counsel early in 2002, in the memo he wrote and the involvement he had in the policy with regard to the application of the Geneva Conventions; and, second, what relationship he had with the memo of Mr. Bybee, head of the Office of Legal Counsel at the Justice Department, with regard to the definition of torture under the Convention Against Torture.

In both of these cases, it seems to me, as I listen to my colleagues who are opposed to the nomination, they take Judge Gonzales's work in both of these areas to be indications of perhaps his lack of independence, lack of good judgment which they believe disqualifies him for this position. And some—I am trying to be fair here—raise questions about whether both of these memos, certainly the second one, the Bybee memo, in any way or in some way contributed to the horrific behavior we saw in the prison abuse scandals at Abu Ghraib. I want to briefly speak to both.

The first is the work that Judge Gonzales did early in 2002, within months after the attack against us of September 11 and the initiation of our own war against terrorism in Afghanistan. I know people have quoted from the memo he wrote with some derision.

I think you have to appreciate the context. As I look back post-September 11, it seems to me in Judge Gonzales's memo and the memos submitted by the State Department, by the Defense Department and others, there is a very serious and classical American debate going on about how to handle al-Qaida and the Taliban, and prisoners taken from their membership, and what is the relevance of the Geneva Convention to those people. It is an argument by a nation that cares about the rule of law. You can agree with Judge Gonzales's position in this matter or not. I happen to agree with the ultimate decision made. And the decision was, in my opinion, a reasonable one and ultimately a progressive one. The decision was that under the terms of the Geneva Conventions, al-Qaida simply is not a state party to a convention, it is a terrorist group, and as such its members were not entitled to prisoner-of-war status.

There is a sentence in Judge Gonzales's letter that was quoted with great derision, laughter, as if it were over the edge. ''In my judgment, this new paradigm,'' which is the post-September 11 war on terrorism, ''renders quaint some of the provisions requiring that captured enemy''—we are talking here about al-Qaida—''be afforded such things as commissary privileges, scrip advances of monthly pay, athletic uniforms and scientific instruments.''

I think, respectfully, Judge Gonzales was being restrained and diplomatic in using the word ''quaint.'' To offer these benefits—access to a canteen to purchase food, soap and tobacco, a monthly advance of pay, and the ability to have and consult personal financial accounts, the ability to receive scientific equipment, musical instruments or sports outfits—to Khalid Shaikh Mohammed, who planned the attacks against us on September 11, would not be quaint, It would be offensive.

It would be offensive. It would be ridiculous. It would be ultimately unjust.

A different conclusion was reached about the Taliban. A summary of the opinion says, although we never recognized the Taliban as a legitimate Afghan government, Afghanistan is a party to the Geneva Conventions, and therefore the President has determined that the Taliban is covered by the conventions.

But then they cite that under the terms of the conventions, Taliban detainees do not qualify for prisoner-of-war status.

Then the progressive part of this opinion, coming out in February 2002, says that even though the detainees are not entitled to prisoner-of-war privileges, they will be provided many POW privileges as a matter of policy. All detainees in Guantanamo are being provided three meals a day that meet Muslim dietary laws, water, medical care, clothing and shoes, shelter, showers, soap and toilet articles, foam sleeping pads, blankets, towels, washcloths, the opportunity to worship, correspondence materials and a means to send mail, and the ability to receive packages of food and clothing subject to security screening. Detainees will not be subjected to physical or mental abuse or cruel treatment.

That is the policy that Judge Gonzales helped them form. That is the policy that our Government issued. To me, it is a remarkably just policy.

I see no basis in anything in the record of Judge Gonzales's participation in this that would lead me to override presumption in his favor.

The Bybee memo—the memo from the Office of Legal Counsel in August of 2002 interpreting the Convention Against Torture and the American statute implementing the conventions—is a separate matter. It is very important to say that this memo was written by the independent Office of Legal Counsel at the Department of Justice with a proud record of independence of opinion.

You may disagree with its conclusions. I disagree with a lot of its content and conclusions. But it is a lengthy, 50-plus pages, single-spaced document, quite scholarly, with over 25 footnotes, as I recall—and offered to Judge Gonzales in his role as Counsel to the President.

I want to repeat again: This was not Judge Gonzales's memo. It was the Office of Legal Counsel's memo.

It is not clear what Judge Gonzales did with this memo. He refused at his hearing before the Judiciary Committee to reveal exactly what he advised the President about the memo. That was frustrating to the committee members, and I understand that. But I must say as a former attorney general, as a lawyer, I respect the right of the Counsel to the President to keep private for reasons of precedent and executive privilege the private counsel he gives to the President of the United States.

I repeat that there are parts of that Bybee memo which I find profoundly offensive. But it was not the Gonzales memo. On the record, we do not know what he advised the President as a result of it.

In questions and answers before the committee, he said he agreed with the conclusion but not all of the analysis in it. It is hard to know what that means. What we do know is that in June of last year, presumably after the Abu Ghraib scandal broke, the Attorney General and White House Counsel were asked to reconsider and withdraw the opinion of August 2002, and reissued the opinion in December of 2004 with just about all of the objectionable matter—to me objectionable—being taken out of it and presumed objectionable to most others. So it is no longer a prevailing memo.

Again, Judge Gonzales said repeatedly at the hearing he would not countenance torture—repeated what is the fact; that the administration made very clear, presumably with his counsel, that the rules of the Geneva Conventions applied to the Iraq war because Iraq was a duly formed government, a sovereign state, and a party to the Geneva Conventions.

What happened at Abu Ghraib was embarrassing, was hurtful to our cause in the world, was offensive, and it is being dealt with within the military justice system as we have seen.

Questions are raised about the connection, I suppose, between the Bybee memo and whatever involvement Judge Gonzales had entered in the events of Abu Ghraib. There is simply no evidence to make the connection, certainly between Judge Gonzales and what happened at Abu Ghraib in any of the independent reviews that have gone on, most particularly Mr. Schlesinger's independent review which said there was no connection between so-called higher-ups and what happened at Abu Ghraib.

In the end, I have to ask myself, because of a memo written by somebody else, Mr. Bybee at the Office of Legal Counsel, which has in it material that I find, as I said, profoundly offensive, that Judge Gonzales received and did something with, am I prepared to vote to deny him confirmation as Attorney General of the United States? To me personally that would be an unjust result. That is why I will vote to confirm.

I understand the frustration of members of the Judiciary Committee about some of the answers—many of the answers that Judge Gonzales gave at the hearing. Some of them were evasive and some were legalistic. But that wouldn't be, would it, the first time the committee had a witness before it that proceeded in that particular way, particularly one who has privileges that he occupies and lives under as Counsel to the President of the United States.

That is why I am going to vote for Judge Gonzales—to confirm his nomination. Nothing that I see in the report rises to a level high enough to overcome the presumption in favor of him as a nominee of the President.

He has many outstanding qualities. I don't know if others have mentioned this in this debate. He has a certain independence of spirit which I don't think has been very much commented on.

I remember reading in the press a moment ago when his name was mentioned as a potential nominee for Supreme Court, some people—I will be explicit—thought he wasn't a likely nominee because there were people in the Republican Party who thought he had too much independence on some issues that were central. I think that should be remembered as we cast the vote.

The final point I wanted to make is this: I would like to believe this. I will state that it has nothing to do with the standard that I apply to voting on confirmation of a nomination, but to me it is a kind of bonus associated with this

nomination. Judge Gonzales, if confirmed, will be the first Hispanic Attorney General in the history of the United States. That is a fact. It is not reason, of course, to vote for him, nor is it a reason to vote against him. But to me it is both a bonus and an extra measure of encouragement about the kind of Attorney General he will be.

I have been in positions myself when I have had the chance in the true spirit of the American dream to break some barriers. I probably have a special sensitivity to others who have had the opportunity to break barriers. When I had that opportunity myself, somebody said to me of another ethnic group—in fact, another racial group—that they were thrilled about what had just happened to me because they believed in America when a barrier falls for one group, the doors of opportunity would open wider for every other American. I believe that. I think that is the bonus that comes with this nomination.

I can't help but also note the broad base of support that Judge Gonzales has received from the Hispanic community, from elected officials, and generally nonpartisan Hispanic organizations. They speak to the significance beyond the merits, but build on the merits that this nomination has to a group of Americans who are playing an increasingly important role in the life of this country.

It encourages me about the kind of job he will do, because I think the experiences he has had, the road he walked to get to where he is, the extraordinary hard work he did to do that, the pride he has in his family, in his heritage, will quite simply make him sensitive to the most fundamental values of equal opportunity, of the rule of law, of an absence of discrimination of any kind.

For all of those reasons, I shall vote yea on the nomination of Judge Gonzales to be our next Attorney General.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am very fortunate. I did not plan it this way, but I was here for most of what Senator LIEBERMAN had to say. I am very glad I had that opportunity. Even though I have never been a member of the Judiciary Committee, I am a lawyer, although I have not practiced for a long time, but I am very pleased I had a chance to listen to an analysis given by the Senator with reference to the memos and what might be taken from them in terms of what it means if we nominate, if we accept his nomination or send him signals about what we think about torture.

Does that mean because he was involved in all of this activity at a time of turmoil, when there were a lot of things we did not know, a lot of legal definitions had not yet been completely determined, that are still out there being litigated and discussed, that he is disqualified from being a good Attorney General? That is hogwash.

As a plain, simple person looking at this, I say: What if I were a lawyer and I decided that the law meant A, B, C, D and that was logical, there were legal opinions and a lot of people supporting it, but after the fact things occurred, and D, E, F said that wasn't right. Does that mean whatever you said was right, as a matter of law? Does it mean since that is not what the court says, you are not a good lawyer, or in some way that disqualifies you from a job?

We have lawyers arguing against each other with legal briefs that have innumerable citations supporting a position. Somebody wins, somebody loses, right? And that does not mean that either side did anything but research the law as best they could, come up with conclusions as best they could.

These very narrow arguments on legal niceties totally miss the point. None of those justify saying he has given America a black eye in terms of torture, and if he is Attorney General, we approve of this kind of person, that would be part of such activity. That has got to be nonsense. I say it different from the Senator. You say it is nonsense but you never say it is nonsense; you just go through and pick it apart.

Of the people who know him, who have known him for longer thin anybody on that side of the aisle, who have practiced with him, who were in the State bar with him, who were there when he got great awards in the Texas bar for his minority, in terms of his culture, but for his excellence in terms of the law, one is Henry Cisneros. He has known him for years and wrote a letter January 5, a tremendous letter. He knew this man. What did he say? Well, he is not saying he shouldn't be Attorney General because he has been reading about what happened with regard to prisoners of war. He didn't say that. He said: I know all about him. He is a terrific lawyer, a wonderful man, and a great success story, and he is Hispanic like I am. Henry Cisneros said: I am proud of him. That is Democratic Henry Cisneros. I think he should become the first Hispanic to be Attorney General.

Other Senators—I hate to say which ones—come down here and argue these legal niceties. I don't want to discredit them. I don't want to say this is an excuse because probably some of them really believe what they have said. I think there is something to the fact that there are a lot of Senators who want to forget the fact that George Bush won. They can't believe he is President again, so, wherever they can, they want to vent their feelings about this.

This man should have every vote in the Senate. He is more qualified than most. He is, in a sense, a better example of somebody who should get this job, a success in America, because of the signal it tells about the American way of life. And success can be achieved by minorities.

His experience as a lawyer is as much or better than most who have been Attorneys General of the United States. Everything you look at, his decisions about this whole business of al-Qaida and whether they should be deemed to be protected by Geneva or not, whether the Taliban up there in Afghanistan should be treated as prisoners of war. There is no question he is not on the edge of a group of people who do not care about humanity, who want to do anything. He is not on that side. In fact, he is pretty much correct, that the ones I just described shouldn't be covered by the Geneva Conventions. Maybe the Iraqi soldiers, but there is nothing that says the Taliban terrorists should or the terrorists in Iraq should, for sure. There is lots of legal opinion. That is not the subject matter of the Geneva Conventions. You still have to have rules about torture. I understand.

I thought I would try to answer some of the allegations that have been made today with reference to the subject matter, but I will not. I am absolutely convinced for many people who are active Democrats, including some in the Senate, they cannot envision that this man, Hispanic, with his upbringing, should be a Republican nominee for Attorney General.

I lived through it all. I come from a State with a large population of Hispanics, huge numbers of them elected to every office in my State, predominantly Democrat. One can almost feel it, a Republican just shouldn't be doing that. That should not be a nominee of a Republican President. They have a lot to learn. He is not the first one. He will not be the last one. And Hispanics are not going to be natural constituents for the Democratic Party or naturally Democratic. It will just not happen anymore.

I commend the President for doing what he did. I commend this man for his successes, his family for the sacrifices, and the Senate for confirming him by an overwhelming vote today. I look toward to his being sworn in.

I conclude by saying I know him, I have worked with him—not as long as former Secretary Cisneros or some others I put in the RECORD yesterday who worked with him in Texas, but when it is all finished, he will be a very good Attorney General.

Frankly, for those who think they might have bruised him up so he cannot be a nominee for the Supreme Court of the United States, which some might have hoped for, I think they missed it because it comes out in the end of being a very frivolous attack. He might be the logical candidate. He might be the kind of person who will clear the Senate. At least when he started a few weeks ago he clearly was in that category. I hope they haven't changed it by what they have done on the other side.

Instead of simply saying we oppose President Bush or we are against the war in Iraq, many of my colleagues on

the other side of the aisle have chosen to make Judge Alberto Gonzalez a scapegoat for their own frustrations.

We have heard numerous allegations such as not treating al Qaeda terrorists like prisoners captured during previous wars means the United States is not following the rule of law.

Since 9/11, Judge Gonzalez and countless other Government lawyers have attempted to respond to war that America had never fought. This is a ''War Against Terror.''

All of these lawyers had to make very difficult decisions to protect America from a new and deadly threat while not knowing if more attacks were imminent.

This is a case of second guessing at its absolute worst.

The allegation is that Judge Gonzalez supports the torture and abuse of terrorists during interrogations.

Judge Gonzalez has repeatedly stated that it is not the policy of the United States to condone torture and that he does condone torture.

The allegation is that Judge Gonzalez does not believe in the Geneva Convention.

The Geneva Convention applies when a combatant meets the following four criteria: is commanded by a person responsible for his subordinates; has a fixed distinctive sign recognizable at a distance; carries arms openly; and conducts operations in accordance with the laws and customs of war.

Clearly the Geneva Conventions do not apply to Taliban fighters or al-Qaida terrorists.

Yet there are still those who insist that Judge Gonzales completely disregarded the Geneva Conventions and through his legal memoranda encouraged torture and mistreatment.

Let me provide just a small sampling of the overwhelming body of evidence that completely refutes Judge Gonzales's opponents.

The final 9/11 Commission Report stated:

> The United States and some of its allies do not accept the application of the treatment of prisoners of war to captured terrorists. Those conventions establish a minimum set of standards for prisoners in internal conflicts. Since the international struggle against Islamist terrorism is not internal, those provisions do not formally apply . . .

The U.S. Court of Appeals for the 4th Circuit in the John Walker Lindh case stated:

> The President's decision denying Lindh lawful combatant immunity is correct.

Legal scholars agree. In her treatise on The Law of War, Professor Ingrid Detter noted that ''[u]nlawful combatants . . . are not, if captured, entitled to any prisoner of war status.''

Professor Gregory M. Travalio has written that ''terrorists would not qualify under Article 4 of Geneva Convention III as Prisoners of War.''

Moving beyond what can only be described as a smoke and mirrors argument, I believe there are other forces at work that have absolutely nothing to do with the Geneva Convention.

Partisan, political, and personal pretty well sums up the opposition to the nomination of Judge Alberto Gonzales to be the next United States Attorney General.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. On behalf of the leader, I ask consent that there be 60 minutes remaining for debate on the pending nomination, with the time divided as follows: 15 minutes to the distinguished ranking member, Senator LEAHY; I, as chairman, the next 15 minutes; then the Democratic leader, Senator REID, 15 minutes; and the majority leader, Senator FRIST, the final 15 minutes.

Finally, I ask consent that after the use or yielding back of time that the Senate proceed to a vote on the nominee as the previous order provides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, for the most part, this has been a substantive debate. Actually, it has been a necessary debate. Now, partisans on the other side of the aisle at times have tried to smear anyone who has voiced concern about this nomination, notwithstanding that anyone who listened to the statements of those of us who oppose this nomination know that each of us has praised the journey Alberto Gonzales and his family have taken.

I am a grandson of immigrants who came to this country not even speaking the language, so I have unbounded respect for all that he and his family have accomplished. In fact, I am the first Leahy to get a college degree; my sister is the second. So I applaud anybody who takes such a journey.

On Tuesday, the Senate heard from Senators FEINSTEIN, SCHUMER, KENNEDY, MIKULSKI, DAYTON, and STABENOW. Yesterday, the debate on this side of the aisle included eloquent and powerful statements by Senators BYRD, DURBIN, JACK REED, and JEFFORDS, all stating their reasons for opposing this nomination on the merits. No one should be accusing these Senators of doing anything except their constitutional duty. Today, we heard as well from Senators DODD, OBAMA, CANTWELL, BINGAMAN, JOHNSON, LEVIN, and FEINGOLD. Each has spoken from conviction. They are voting their conscience.

We have also made time to hear from one of our newer Democratic Senators, Mr. SALAZAR of Colorado, regarding the assurances and commitments he has obtained from the nominee and on which he is relying in his vote. I also note that today he returned to the Senate floor to make another important statement that rejected those who have tried to play a divisive ethnic card. He spoke about the true meaning of diversity and our national journey toward equal rights for all. Senator SALAZAR spoke to me before he spoke on the floor. I commend him for what he has done. I thank him for his remarks. It is what I would have expected from a man of his integrity and quality.

Senator BIDEN observed during the confirmation hearing that none of us came to that hearing having determined to vote against the nomination. In fact, most of us, I would say, if not all of us on the Democratic side of the aisle in the Judiciary Committee came there assuming we were going to vote for him. We listened. We asked questions. We sought answers. We weighed the record.

It was not an easy decision for any of us. Each of us would have liked to have supported the first Hispanic nominee to be Attorney General. We each made a decision on the merits of the nomination. We did not ignore his judgments that contributed to the scandals in the war against terror and the mistreatment of detainees around the world. Some have said that some of those positions were embarrassing. They were a lot more than embarrassing; they were a complete scandal.

When this nomination was announced last year, many of us were inclined to support Judge Gonzales. But as the confirmation process unfolded, one by one, members of the Judiciary Committee began to have doubts. Many were troubled by the nominee's refusal to engage with us in an open discussion of his views on a wide range of issues.

I was particularly concerned because I had actually sent to him and to the Republicans in the committee a number of the questions I was going to ask so he would have plenty of time to prepare to answer. Instead, he did not answer.

For some, the key question was how Judge Gonzales interprets the scope of Executive power and his belief that the President possesses authority to ignore our laws when acting as Commander in Chief. No President of the United States can ignore our laws, no President of the United States is above the law any more than any of us are above the law. For others, the tipping point was the nominee's continued adherence to flawed legal reasoning regarding torture, a stubborn commitment betraying seriously poor judgment. Finally, and deeply troubling to many of us, is the nominee's lack of independence from the President.

In the end, after serious consideration of the record, each of us arrived at the same conclusion: In good conscience, we could not vote for this nomination.

Now, some have talked about the legal memos he was involved in as legal niceties. Well, Mr. President, torture is not a legal nicety, especially if you are the person being tortured. Those of us who have been in the military or who have had members of our family in the military have always hoped we would hold to the highest standards so we could demand that other countries do the same.

It is wrong for partisans to castigate Senators for debating this nomination

and for considering the critical role this nominee played in the development of legal policies that were kept hidden for a couple years, but when they were brought forward by the press, not in answer to questions by Members of Congress—the press did our work and brought them forward—those so-called legal niceties could not stand the light of day.

Consistent with my oath of office, the commitment I have had to the people of Vermont for over 30 years, I will vote my conscience again today. I urge each and every Senator to do the same. Review the record, truly review the record and the actions of this nominee over the past 4 years and vote accordingly.

I do not think I have ever been on the floor of this Senate and predicted vote totals. I am not going to today. But I will predict this: Democratic Senators will not vote as a block. Some will vote against this nomination; some will vote in favor of this nomination. They will do so not on the basis of some party caucus position but as individual Senators. I urge all Senators—Republicans and Democrats and Independent—to approach this vote in that way, on the merits, after you review the record in good conscience. This should not be a party-line vote on either side of the aisle but one where each Senator votes his or her best judgment.

Many Senators here today no doubt believe that the President is owed a high degree of deference in his Cabinet choices. I feel that way. But that does not erase our constitutional obligations as Senators. We have a duty to advise and consent, not to listen and rubberstamp. I take that responsibility very seriously, especially in the case of the Attorney General. The Attorney General is unique among Cabinet officers. You can give a lot more flexibility to other Cabinet officials whose main purpose is simply to state the position of the President of the United States. Whether you agree with the position, that is their duty. So you give a lot more deference, and you say: Well, they are going to state the position of the President. We can vote for them.

But the Attorney General is different. He or she is the top Federal law enforcement officer in the land. The power and discretion of the Attorney General is enormous. The Attorney General has to have sufficient independence to uphold the law and enforce the law, even if doing that serves to embarrass or disadvantage the President, even if it means taking a position contrary to what the President may want, because you have to enforce the law.

Now, when Judge Gonzales was designated and appeared in the White House with the President, he offered a very significant insight into how he views the role of the Attorney General. He emphasized how much he looked forward ''to continuing to work with friends and colleagues in the White House in a different capacity on behalf of our President.''

During his confirmation hearing, he appeared to continue to serve as a spokesman for the administration and to be its chief defense lawyer on a wide variety of important matters. His defenders here on the Senate floor have excused his answers by characterizing them as the views of the administration.

We are voting on the Attorney General of the United States, not the Attorney General of the President. The Attorney General must represent the interests of all Americans and is the nation's chief law enforcement officer.

One of the key questions raised by this nomination is whether, if confirmed as Attorney General, the nominee will serve not just this President but all the American people, and whether he will show the independence necessary to enforce the law. We have to know that he is there to represent all of us. We have to know that he can enforce the law and not be worried about friends, colleagues, or benefactors at the White House. The Attorney General's duty is to uphold the Constitution and the rule of law, not try to find ways to circumvent it to fit the desires of any President.

Actually, the President, when you come right down to it, as well as the Nation, are best served by an Attorney General who gives sound legal advice and takes responsible action without regard to political considerations. Others in the Cabinet are there to just voice the opinions of the President. The Attorney General has to be a lot more independent.

I raised this matter of independence with Judge Gonzales when he testified, and I reiterated it in a letter I sent to him before his hearing. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, December 3, 2004.

Hon. ALBERTO R. GONZALES,
Counsel to the President,
The White House, Washington, DC.

DEAR JUDGE GONZALES: I enjoyed our preliminary meeting and look forward to your confirmation hearings. In following up on our meeting, and to give you and your staff ample opportunity to prepare for the hearings, I write to reiterate several concerns that I have raised in prior discussions and correspondence. When we met on November 17, 2004, I said that these issues will be raised, by myself and other members of the Senate Judiciary Committee, during the upcoming hearings. Based on our conversation, I am encouraged by your willingness to answer questions about your role and your views in these matters.

Photographs and reports of prisoner abuse in Iraq and other locations show an interrogation and detention system operating contrary to U.S. law and the Geneva Conventions. In addition to the abhorrent images from the Abu Ghraib prison that were published last spring, actions that have occurred with Administration approval include the forcible rendition of individuals to nations where they may face torture, and the hiding of ''ghost detainees'' from the International Committee of the Red Cross. Reports of abuse continue to emerge. Just this week, The New York Times reported that the Red Cross has charged U.S. military authorities with using physical and psychological coercion ''tantamount to torture'' on prisoners at Guantanamo Bay. The Washington Post is reporting that in December 2003 Army generals in Iraq were warned in a confidential report that members of an elite military and CIA task force were abusing detainees. According to The Post, the report concluded that certain arrest and detention practices could be deemed to be ''technically'' illegal.

In letters dated May 17 and June 15 of this year, I asked you to describe your role in both the interpretation of the law and the development of policies that led to what I and many others consider to have been a disregard for the rule of law. These letters remain unanswered.

My concerns regarding the abuse of prisoners in U.S. custody did not begin with these letters. I have been seeking answers from the Administration for well over a year, before the abuses at Abu Ghraib came to light. In a very few cases my questions were answered, but with information that later proved to be less than accurate. For example, in a news conference on June 22, 2004, you stated, ''In Iraq, it has always been U.S. position that Geneva applies. From the early days of the conflict, both the White House and the Department of Defense have been very public and clear about that.''

However, an October 24, 2004, article in The Washington Post revealed yet another Justice Department memo authorizing actions that potentially violate the Geneva Conventions. The draft memo, dated March 19, 2004, apparently was written to authorize the CIA to transfer detainees out of Iraq for interrogation—a practice expressly prohibited by the Geneva Conventions. According to the memo's cover letter, it was drafted at your request.

In another example, a June 25, 2003, letter from Department of Defense General Counsel William Haynes stated that the United States was adhering to its international obligations including those under the Convention Against Torture. We later learned of an August 1, 2002, Department of Justice memorandum that twisted the definition of torture in unrecognizable ways. That memo was addressed to you. We also learned months later of the rendition of a Canadian-Syrian citizen to Syria, despite his fear of being tortured there, and despite the Syrian government's well-documented history of torture. Unnamed CIA officials told the press that this man was in fact tortured in Syria.

The Committee and the Senate will want to know your role in these situations and your views with regard to the development of the legal justifications that appear to underlie so many of these actions. You will be called upon to explain in detail your role in developing policies related to the interrogation and treatment of foreign prisoners. The American public and the Senate that will be called upon to confirm your appointment deserve to know how a potential Attorney General, the chief law enforcement officer in the nation, will interpret and enforce the laws and how you will develop policy.

We want to know what the current policy on torture is, but since the Administration disavowed the August 1, 2002, memo, no public statement of policy has replaced it. Questions remain unanswered on a host of issues. Requests to the White House and the Department of Justice for relevant documents—including my requests to you in May and June of this year—have been ignored or rejected. I

urge you and the Administration to provide the documents that have been requested by myself and others without further delay so that the hearings will be well informed.

Another key concern you will be called upon to discuss is how you view the duties and responsibilities of the Attorney General. As we discussed, I view the White House Counsel position and that of the Attorney General as quite distinct. You may well have viewed this President as your ''client'' while serving him at the White House, although the courts do not recognize an attorney-client privilege in that setting. We will want to know how differently you will act and view your responsibilities as the Attorney General of the United States. finally, I encourage you to commit to cooperating with all members of the Judiciary Committee on issues of oversight and accountability. In the 108th Congress, the Judiciary Committee failed to fulfill its oversight responsibilities. Accountability and improving government performance are sound and long established purposes of congressional oversight, and accountability has been lacking on these and other crucial issues. With a new Congress, and a new Attorney General, I expect a return to the diligent oversight envisioned by our Founders to ensure that the Executive Branch remains accountable to the American people.

Our meeting was a constructive beginning at the start of the confirmation process, and I look forward to your hearing early next month. In the meantime, Marcelle and I send our best wishes to you and your family and hope that you have a restful and rewarding holiday season.

Sincerely,

PATRICK LEAHY,
Ranking Democratic Member.

Mr. LEAHY. I was not surprised to hear him say that the responsibilities of the Attorney General are different than those as White House Counsel. But I did not see that during the hearings. He deferred to the official policies of this administration throughout the Judiciary Committee proceedings.

When asked about the Bybee memo, he said:

I don't have a disagreement with the conclusions then reached by the Department.

And he stated a patently false reading of the torture convention that would allow for foreigners captured overseas to be subjected to cruel, inhuman, and degrading treatment at the hands of American captors or surrogates. He appeared to accept the notion that the President has the authority to immunize somebody to commit torture under his command.

A letter signed by a number of high-ranking former military officers, including the former head of the Joint Chiefs, GEN John Shalikashvili, said the interrogation policies that Judge Gonzales helped to define ''have fostered greater animosity toward the United States, undermined our intelligence-gathering efforts, and added to the risks facing our troops serving around the world.''

The best evidence we have is that he rejected the advice of Secretary Powell and career military officers when he recommended to the President the Geneva Conventions should not apply to the conflict in Afghanistan. Admiral John D. Hutson, the former Judge Advocate General of the Navy, testified to the Judiciary Committee that the advice given by Judge Gonzales to the President on this point was ''shallow in its legal analysis, short-sighted in its implications, and altogether ill-advised. Frankly, it was just wrong.''

These military men are joined in opposition to this nomination by a large number of organizations, including the Leadership Conference on Civil Rights, the La Raza Centro Legal, and the Mexican-American Political Association. Three leading human rights organizations, Human Rights Watch, Human Rights First, and Physicians for Human Rights, none of which have ever opposed a nomination before, did so for the very first time. They acknowledge that the struggle to stamp out torture around the world ''has been made harder by the legal positions adopted by the Bush Administration, including Mr. Gonzales's refusal to state that a President could not lawfully order torture.'' The Congressional Hispanic Caucus and the Mexican American Legal Defense and Educational Fund both issued statements stating that they cannot support this nomination. I ask unanimous consent to include in the RECORD a list of organizations opposing or not supporting the nomination.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS OPPOSED TO THE CONFIRMATION OF ALBERTO R. GONZALES

Alliance for Justice
Americans for Democratic Action
Center for American Progress
Center for Constitutional Rights
Friends Committee on National Legislation
Global Rights: Partners for Justice
Human Rights First
Human Rights Watch
International League for Human Rights
La Raza Centro Legal
Leadership Conference on Civil Rights
The Mexican-American Political Association (MAPA)
Minnesota Advocates for Human Rights
National Alliance for Human Rights
People for the American Way
Physicians for Human Rights
Physicians for Social Responsibility
Plainfield Meeting of the Religious Society of Friends (Plainfield, VT)
REFUGE (Torture survivors program)
RFK Memorial Center for Human Rights
The Shalom Center
Veterans for Common Sense

Mr. LEAHY. While I have heard partisan attacks from the other side of the aisle, I have not heard Republicans offer a strong defense of Judge Gonzales's actions and judgment. What they come back to again and again is his inspirational life story. Having an Hispanic American serve as Attorney General is overdue and something to which I look forward. Having an African American serve as Attorney General is, likewise, overdue. In his letter to the Judiciary Committee, retired Major General Melvyn Montano may have said it best: ''Judge Gonzales should be evaluated on his record, not his ethnicity.''

At particular moments in our history, the Senate at its best can be the conscience of the Nation. The history books and our children and grandchildren will look back on these times and make their own judgments about how worthily the Senate has served that role as we confront any number of difficult issues in these challenging times. But I do believe that, whatever the outcome of this confirmation proceeding, it is worthy of the Senate that we at least held this debate. It is worthy of the Senate that these issues were deemed important enough to discuss for several days on the floor of the United States Senate. To have wished them away or to have just glossed over them would have been a disservice not only to today's generations of Americans, in and out of uniform, but also to tomorrow's generations of Americans. And it would have been a disservice to the Senate that we all so deeply respect.

I have deeply believed that it should concern the Senate that we have seen departures from our country's honorable traditions, practices, and established law in the use of torture, originating at the top ranks of authority and emerging at the bottom. At the bottom of the chain of command, we have seen a few courts-martial, but at the top we have seen medal ceremonies, pats on the back, and promotions.

At his recent inaugural address, I praised President Bush for his eloquent words about our country's historic support for freedom. But to be true to that vision, we need a government that leads the way in upholding human rights, not one secretly developing legalistic rationalizations for circumventing them. We need to climb our way back to the high moral ground that has distinguished our great country and that has been an inspiration to the whole world.

Members of the Senate have a solemn obligation to uphold the law and the Constitution. Each of us has to decide whether the nominee has the sound judgment and the independence required to be Attorney General. I would have been willing to vote for Judge Gonzales in a number of different positions of Government, but not in this one. I wish we could vote for his life story and not for the actual record. Unfortunately, we are voting on the record. I ask each Senator to consider it.

I know that each will consult his or her conscience in reaching a decision, and that is in keeping with the best traditions of the Senate.

If I have time remaining, I yield it back.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, it has been a long month for Judge Gonzales, starting with his hearing on January 6, through today. It has been a long month for the Senate, as we have considered his testimony, heard him, deliberated about him, and now 3 days of

argument on the Senate floor about Judge Gonzales. What is striking to me is how little there has been about the 49 years of this man's life contrasted with a few meetings where the contents have been grossly distorted.

This is a man who has an extraordinary record, but it has not been the subject of analysis or discussion today as to whether he has the qualifications to be Attorney General of the United States.

What are those qualifications? A man of intellectual achievement, a graduate of Rice University, a graduate of Harvard Law School, professional competence demonstrated by practicing law, a distinguished career as a state supreme court justice in Texas, his work for Governor George W. Bush in Texas, his work for 4 years as White House Counsel where he has come into contact with so many Members of the Senate, and quite a few of those Members have spoken out about him before the misrepresentations of what happened in a few meetings, which have led people to inappropriately blame Judge Gonzales for what happened at Abu Ghraib or Guantanamo.

But what have Members of the Senate had to say about Judge Gonzales on their work with him?

Senator KOHL said:

We have had an opportunity to work together on several different issues over the years, and I have come to respect you also. And I believe if you are confirmed that you will do a good job as Attorney General of the United States.

Senator DURBIN:

I respect him and his life story very much.

Senator LEAHY:

. . . I like and respect Judge Gonzales.

Senator BIDEN:

He has overcome great adversity in his life, and I believe he is an intelligent, decent, and honorable man.

Senator SCHUMER, who has had very extensive contact with Judge Gonzales because the State of New York has a great many Federal judges, had this to say:

I like Judge Gonzales. I respect him. I think he is a gentleman and I think he is a genuinely good man. We have worked very well together, especially when it comes to filling the vacancies on New York's Federal bench. He has been straightforward with me and he has been open to compromise. Our interactions haven't just been cordial; they have been pleasant. I have enjoyed the give-and-take we have engaged in.

I was inclined to support Judge Gonzales. I believed and I stated publicly early on that Judge Gonzales was a less polarizing figure than Senator Ashcroft had been.

I still have great respect for Judge Gonzales. He has the kind of Horatio Alger story that makes us all proud to be Americans. It is an amazing country when a man can rise from such humble beginnings to be nominated for Attorney General.

And what Senator SCHUMER was referring to was the fact that there were seven siblings, a mother and father, two-room accommodations, no hot water, referring to his Horatio Alger story, up from the bootstraps without even boots.

When Senator LIEBERMAN took the floor this afternoon, there was for the first time, except for Senator SALAZAR, at least as I recollect, comments from the other side of the aisle about the man's character and about the man's background.

Well, what happened? There was a memorandum which has been quoted against Judge Gonzales repeatedly where, referring to the Geneva Convention, the words ''quaint'' and ''obsolete'' were used. But what was the context? This is what he said:

This new paradigm—that is, after 9/11—renders obsolete Geneva's strict limitations on questioning of enemy prisoners and renders quaint some of its provisions requiring that the captured enemy be afforded such things as commissary privileges, scrip—that is, advances of monthly pay—athletic uniforms, and scientific instruments.

Well, nobody is going to say that al-Qaida or the Taliban would have any commissary privileges—not an issue. Whether there would be advances of monthly pay—not an issue. Athletic uniforms—not an issue. Scientific instruments—not an issue. So there is simply a recognition that it was quaint, that it didn't apply to the situation at hand.

The charges against Judge Gonzales have been that he was the architect of what happened at Abu Ghraib and Guantanamo, which is a stretch beyond any conceivable justification from the record in this case. What did Judge Gonzales do? Judge Gonzales asked that the Department of Justice prepare a legal memorandum on the law. That is the responsibility of the Department of Justice. Then he participated in several meetings, and he was candid about what happened in those meetings, as best he or anybody could recall on meetings that happened several years ago. And then, understandably, he said it was a matter for the Department of Defense and the Central Intelligence Agency, where they had the expert questioners, to decide what questions to propound to the detainees. And from that participation, he has been charged with monstrous offenses.

The so-called Bybee memorandum of August 2002 has been denounced. It was denounced by Judge Gonzales. I asked him the specific question about the assertion in the Department of Justice memorandum that the President had as much authority on questioning detainees as he had on battlefield decisions—an absolutely preposterous assertion—and Judge Gonzales said, no, he disagreed with that. There had been a comment that he respected the authority of the Department of Justice to render a legal opinion because of the continuing concern not only from this President, but prior Presidents, that if the White House tried to tell the Justice Department what the words were, or to control it, the White House could be guilty of politicization. Judge Gonzales understandably steered away from that.

In terms of being deferential to the role of the Department of Justice, but not to the August 2002 memorandum, which he denounced and which he said was incorrect when it asserted great powers to the President, with the suggestion that the President have the power to ignore the law, or which suggested inferentially, very tenuously about the President having the authority, were explicit on granting immunity, which, of course, the President doesn't have the authority to do.

Mr. President, how much time remains of my 15 minutes?

The PRESIDING OFFICER. There is 6 minutes.

Mr. SPECTER. I thank the Chair.

The essence of Judge Gonzales's role was summarized by one of his statements, consistent with his entire testimony. It is this:

Shortly after September 11, 2001, until the present, the administration has been involved in conducting the war on terror by gathering as much information from terrorists as we possibly can within the bounds of the law. During that time, I have participated in several meetings at which the possible use of methods of questioning were discussed. These meetings may have included, from time to time, representatives from the National Security Council, the Department of State, the Department of Justice, the Department of Defense, Central Intelligence Agency, and others. In the meetings I attended, agencies' representatives raised concerns that certain terrorists had information that might save American lives. The participants shared the desire to explore whether there existed methods of questioning these terrorists that might elicit that information. It was always very clear that we would implement such methods only within the bounds of the law. As counsel to the President, my constant interest is and was on the last factor, enduring compliance with the law.

There you have Judge Gonzales's role. He listened to the Department of Justice, which had the responsibility to interpret the law on what the appropriate conduct was. When it was off the wall or over the top, he disagreed with it. It is up to the Department of Defense and CIA—the experts on questioning—to make decisions on those matters.

Judge Gonzales was explicit in his opening statement. He didn't wait for anybody to ask him any questions about the scope and role of the Attorney General—that it was much broader than being Counsel to the President.

On the totality of this record, I suggest to my colleagues that Judge Gonzales is qualified to be Attorney General of the United States. When you look at his life, some 49 years, and at the values which he demonstrated in many lines, values he demonstrated as a young man facing great adversity and achieving a college education at Rice—that is not easy—going to the Harvard Law School—that is not easy—practicing law with a prestigious firm and distinguishing himself; taking on a responsibility for the Governor of Texas; being a justice on the State Supreme Court; and his positions as White House counsel were very progressive and independent. He took a

stand in opposition to the White House, favoring affirmative action on the University of Michigan lawsuit, a very controversial matter. It is not easy for White House Counsel to stand up in the midst of a great deal of polarized contentions and be in favor of affirmative action. When the Texas statute came up—the so-called bypass—on what a young woman had to do to obtain an abortion with respect to satisfying the requirements for an order of the court allowing a bypass, Judge Gonzales took a position which was sharply criticized by those on the far right of the party, showing independence, showing values, showing judgment. You can contrast that with a few meetings where Judge Gonzales played an appropriate role, except to the extent that there have been representations and attenuations and inferences that are far beyond any of the testimony or anything that has been said.

So if you take the scanty fathoms, scanty ideas, scanty speculation—I guess that is the best word—from those meetings, it is totally unsubstantiated by the record; and everything on the record shows Judge Gonzales is worthy of being confirmed as Attorney General of the United States.

I thank the Chair and yield the floor. I am sure the leaders will appear shortly to take the remainder of their time. In the absence of a Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. REID. Mr. President, our great Nation was founded on the idea of human rights. From the very beginning, we were designed to be a place where men and women could live free, a place where no man was above the law, a place where the state would never trample on the rights of individuals.

We did not always live up to our ideals. Along the way, we stumbled. We have made mistakes. But we always worked to correct our mistakes. We worked to uphold the core values that formed our national soul.

Because of our unshakable belief in human rights, we became a ray of light, a beacon for people in other parts of the world. America has been that beacon because we are a nation governed by laws, not by men.

We are a nation where no one, not even the President of the United States, is above the law. We are a nation where our military is bound by the uniform Code of Military Justice and the laws of war. And we are a nation that even at war stands for and upholds the rule of law.

There is no question gathering intelligence from suspects in our war on terror is critical to protecting this great Nation. No one in this Chamber would argue otherwise, I would think. These are very bad people with whom we are dealing. But when interrogation turns to torture, it puts our own soldiers at risk. It undermines the very freedoms Americans are fighting to protect.

We are a nation at war—a war in Iraq and a war against terrorism—but this war does not give our civilian leaders the authority to cast aside the laws of armed conflict, nor does it allow our Commander in Chief to decide which laws apply and which laws do not apply. To do so puts, I repeat, our own soldiers and our Nation at risk.

But that is what has occurred under the direction and coordination of the man seeking to be Attorney General of the United States, Alberto Gonzales, a man I personally like, but whose judgment on these very serious matters was flawed and is flawed.

I have heard a great deal on this Senate floor about Judge Gonzales's background over the last few days, how his parents were migrant farm workers, and how he worked his way up from poverty. It is an inspiring story, and it is one that resonates with me.

I met with Judge Gonzales after the President sent his nomination to the Senate. We talked about our childhoods, about coming from small rural towns, some would say without many advantages. The fact that someone from a place called Humble, TX, and someone from a place called Searchlight, NV, have had an opportunity to achieve their dream is what America is all about.

But, embodying the American dream is not a sufficient qualification to be Attorney General of the United States.

The Attorney General is the people's lawyer, not the President's lawyer. He is charged with upholding the Constitution and the rule of law. The Attorney General must be independent, and he must be clear that abuses by our Government will not be tolerated.

Judge Gonzales's appearance before the Judiciary Committee raised serious questions about his ability to be that force in the Justice Department. That is why I am going to vote against him.

In 2002, Judge Gonzales provided legal advice to the President of the United States calling parts of the Geneva Conventions obsolete and quaint—that is what he said, they were obsolete and quaint—opening the door for confusion and a range of harsh interrogation techniques.

What are the Geneva Conventions? At the end of the Civil War, people from around the world decided there should be some semblance of order in how war is conducted. Starting in 1864, there was a convention adopted, and there have been four revisions to the Geneva Convention. That is why it is referred to as the Geneva Conventions because it is, in effect, four treaties.

This is basically an agreement concerning the treatment of prisoners of war, of the sick, wounded, and dead in battle. These are treaties that relate to what happens to human beings in war. These conventions have been accepted by virtually every nation in the world.

A former Navy judge advocate general, RADM John Hutson, said:

> When you say something down the chain of command, like 'the Geneva Conventions don't apply,' that sets the stage for the kind of chaos we have seen.

The President signed an order accepting the reasoning of the Gonzales memo. The Presidential order was the legal basis for the interrogation techniques and other actions, including torture, which simply took as fact that the Geneva Conventions did not apply.

Can you imagine that, the United States saying the Geneva Conventions do not apply? But that is what took place.

Our military lawyers, not people who are retired acting as Monday-morning quarterbacks, but our military lawyers who are working today, who are experts in the field, have said the interrogation techniques authorized as a result of the Presidential order and allowed under the Gonzales reasoning were in violation of the U.S. military law, the U.S. criminal law, and international law.

According to RADM Don Guter, a former Navy judge advocate general:

> If we—we being the uniformed lawyers—that is, the lawyers who are in the U.S. military—had been listened to and what we said put into practice, then these abuses would not have occurred.

So the people who serve in our military who gave legal advice said this should never have happened.

After the scandal at Abu Ghraib and the recent allegations of abuse at Guantanamo, I expected at this hearing before the Judiciary Committee to hear Judge Gonzales discuss the error of the administration's policies and the legal advice he provided the President.

When he came before the committee, Judge Gonzales stood by his legal reasoning and the policy of his reasoning. Judge Gonzales called the President's Geneva determination ''absolutely the right decision.''

With regard to the legal opinion Judge Gonzales solicited in the Justice Department so-called ''torture memo,'' he stated at his hearing, ''I don't have a disagreement with the conclusions then reached by the Department,'' even though the Department itself has now disavowed this legal reasoning.

I heard Senator KENNEDY state that the dean of Yale Law School, probably the No. 1 law school in the entire country, has said he has never seen legal reasoning as bad as the Gonzales memo. That is pretty bad.

For example, military lawyers who are experts in the field have said without the order issued by the President, at Mr. Gonzales's behest, they would take the position that the interrogation techniques used against Taliban prisoners and later in Iraq would be violations of U.S. military law, U.S. criminal law, and international law.

So who are we to believe? These people who are dedicated to making sure that they, as the legal officers of the U.S. military, do what is right? They say we should follow the Geneva Conventions. Gonzales said—not necessary.

I will say a word about the interrogation techniques that were authorized. They included forced nakedness, forced shaving of beards, and the use of dogs, just to name a few. Many are specifically designed to attack the prisoner's cultural and religious taboos.

In describing them, the similarities to what eventually happened at Abu Ghraib are obvious. Once you order an 18-year-old, a young man or woman, to strip prisoners naked, to force them into painful positions, to shave their beards in violation of their religious beliefs, to lock them alone in the dark and cold, how do you tell him to stop? You cannot.

We have seen the pictures of naked men stacked on top of each other in the so-called pyramid; rapes of men, rapes of women, leading in some cases to death. How does one tell an American soldier that torture is a valid treatment as long as the Government says the prisoner is not covered by the Geneva Conventions?

Any student of history would know that the North Vietnamese said captured U.S. pilots were not protected as prisoners of war because there was no declared war. That is what happened in the Vietnam war. They kept our men in solitary confinement for months, sometimes years at a time.

I will tell my colleagues about one of our men and what that man said about his treatment by the Vietnamese:

> It's an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment. . . .

Here, I would make an editorial comment that this man knows about any other kind of treatment. He was brutally beaten, limbs broken, limbs already broken rebroken. So he knows what he is talking about. So I repeat, a direct quote:

> It's an awful thing, solitary. It crushes your spirit and weakens your resistance more effectively than any other form of mistreatment. Having no one else to rely on, to share confidences with, to seek counsel from, you begin to doubt your judgment and your courage.

The man who said these words was a Navy pilot, LCDR John McCain. For John McCain and all our soldiers serving across the globe, we need to stand against torture because of what it does to us as a country, to those serving now, to the future servicemen of our country, and what it does to us as a nation.

If we fail to oppose an evil as obvious as torture—it is an evil and it is obvious it is wrong—then as President Thomas Jefferson said, I will ''tremble for my country when I reflect that God is just.''

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, the Senate is about to vote on the nomination of Judge Alberto Gonzales for Attorney General. We have had 3 days of spirited debate. I am gratified that my colleagues on the other side of the aisle decided not to block an up-or-down vote on his nomination.

Judge Gonzales is eminently qualified to serve as our Nation's top law enforcement officer. He is an outstanding candidate who deserves our strong support.

Unfortunately, during the course of this process a number of groundless criticisms have been unfairly leveled against Judge Gonzales, many of them based on exaggeration or quotations taken out of context. I will take this opportunity to very briefly address them for the record.

First, President Bush does not have, nor has his administration ever had, an official Government policy condoning or authorizing torture or prisoner abuse.

Let me restate for the record an excerpt from a Presidential memo dated February 7, 2002:

> Our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. . . .As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with the military necessity, in a manner consistent with the principles of the Geneva Conventions governing the laws of war.

Second, neither Judge Gonzales nor the President have condoned, advocated, or authorized torture of prisoners. In fact, on numerous occasions both have explicitly condemned torture as an abhorrent interrogation technique.

Third, Judge Gonzales was not the author but the recipient of memos focusing on interrogation methods of captured terrorists. The research memos that have been the focus of so much attention and criticism were written by the Office of Legal Counsel of the Department of Justice to Judge Gonzales as White House Counsel. The memos explored the legal interpretation of a Federal law. They did not set administration policy. The Department of Justice has since categorically withdrawn this controversial legal analysis, stating unequivocally:

> Torture is abhorrent, both to American law and to international norms.

These are the facts, straight and simple. Judge Gonzales has acted with total professionalism and high regard for the law. Suggestions to the contrary are baseless and a slur against an honorable man. Judge Gonzales is highly qualified to be America's next Attorney General. Judge Gonzales is a man of keen intellect, high achievement, and unwavering respect for the law. He will continue to build on the success of the last 4 years in reducing crime, fighting corporate fraud, and upholding our civil rights. As our first Hispanic-American Attorney General, Judge Gonzales will stand as an inspiration to all Americans. I urge my colleagues to offer their full support to Alberto Gonzales as our next Attorney General.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Alberto R. Gonzales, of Texas, to be Attorney General?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent—the Senator from Montana (Mr. BURNS).

Further, if present and voting, the Senator from Montana (Mr. BURNS) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. CONRAD), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 36, as follows:

[Rollcall Vote No. 3 Ex.]

YEAS—60

Alexander	Domenici	Murkowski
Allard	Ensign	Nelson (FL)
Allen	Enzi	Nelson (NE)
Bennett	Frist	Pryor
Bond	Graham	Roberts
Brownback	Grassley	Salazar
Bunning	Gregg	Santorum
Burr	Hagel	Sessions
Chafee	Hatch	Shelby
Chambliss	Hutchison	Smith
Coburn	Inhofe	Snowe
Cochran	Isakson	Specter
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Cornyn	Lieberman	Talent
Craig	Lott	Thomas
Crapo	Lugar	Thune
DeMint	Martinez	Vitter
DeWine	McCain	Voinovich
Dole	McConnell	Warner

NAYS—36

Akaka	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Obama
Byrd	Jeffords	Reed
Cantwell	Johnson	Reid
Carper	Kennedy	Rockefeller
Clinton	Kerry	Sarbanes
Corzine	Kohl	Schumer
Dayton	Lautenberg	Stabenow
Dodd	Leahy	Wyden

NOT VOTING—4

Baucus	Conrad	Inouye
Burns		

The nomination was confirmed.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

The Senator from Pennsylvania.

CONFIRMATION OF ALBERTO GONZALES

Mr. SPECTER. Mr. President, I thank my colleagues for the affirmative vote in support of Judge Gonzales to be the next Attorney General of the United States. The final vote of 60 to 36 reflects a degree of bipartisanship.

Judge Gonzales takes on this heavy mantle of responsibility as Attorney General of the United States being very well qualified to do so. He has worked as White House Counsel, as we all know, for 4 years, and has worked closely with many, if not most, of the Senators who have had judicial nominations which have come to him. I put into the RECORD many laudatory, complimentary statements which were made about Judge Gonzales for his work as White House Counsel.

Regrettably, the incidents at Abu Ghraib and Guantanamo—particularly at Abu Ghraib—are a major blemish. At Guantanamo the problem is still under investigation. Those incidents, realistically viewed, were not the responsibility of Judge Gonzales. His role was a limited one. It is up to the Department of Justice to provide legal opinions as to the scope of appropriate conduct, up to the experts in the Department of Defense, the CIA to formulate the questions. But 60 votes is good, sound support for Judge Gonzales. I am pleased to see his confirmation has been approved by the Senate. We have consented to the President's nomination.

In my capacity as chairman of the Judiciary Committee, I look forward to working with Attorney General Gonzales.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mr. DORGAN. Mr. President, we are embarking on a debate with respect to the subject of Social Security. Last evening, the President gave a State of the Union Address and today is traveling around the country to talk about a very important issue, Social Security.

In many ways the issue is about values. There has been a great deal of discussion about values in this country, especially as it applies to political debates. I think the debate about the Social Security system is a debate about values.

Some months ago, a friend of mine died in a small community in North Dakota. I sent some flowers and called. He was a man in his eighties. He lived a great life. He was a wonderful person. I got a note from his wife. Here is what she said about her husband. She said: Oscar always helped his neighbors and he always looked out for those who did not have it so good. That is all she said. But what a wonderful description of someone's value system and of someone's life: He always helped his neighbors and always looked out for those who did not have it so good.

In many ways that prompted the origin of the Social Security program. In the 1930s, one-half of America's senior citizens were living in poverty.

When I was a young boy, my father asked me, in the town of 300 people where we lived, to drive an old fellow to the hospital. The man lived alone in a very small shack. He did not have any relatives. He lived alone, and he was quite sick. My dad asked if I would drive him to the hospital. The nearest hospital was 60 miles away.

I went over and picked him up and drove him to the hospital. He never made it back. But this old man, who was then sick and did not have very much, lived on Social Security. The only thing he had was a small Social Security check, but it was the difference for that man between not having money to buy food, not having money to live, and being able to survive.

I know—and my colleagues know—how critically important Social Security has been to so many of America's elderly. Yes, I am talking about the people who built this country. I am talking about the people who built America's schools and roads and worked in America's factories. They are the people who turned this country into the strongest economy in the world, a beacon of hope for all people. Then they grow old and retire, and they reach their declining income years. The question is, what is there for them?

The one thing that for 70 years has always been there for them is something called Social Security. No, it is not an investment program. It is an insurance program. The money that goes into the Social Security system comes out of paychecks in something called the FICA tax. The FICA is not for investment. The ''I'' stands for ''insurance.'' Social Security has been a core insurance program. It provides insurance with respect to benefits for those who retire. It provides benefits for those who are disabled, and it provides benefits for dependent children. For example, when the breadwinner of the house lost their life, dependent children received the benefits. So it is more than a retirement program, but it is also that. It is the risk-free portion of retirement. It is the piece that for 70 years the American elderly could count on. They would know it would be there no matter what.

Some have never liked it and have always wanted to take it apart. There was a memorandum leaked about 3 weeks ago from the White House that was interesting. It was from the chief strategist who is putting together this program to privatize a portion of Social Security. That memorandum said toward the end something that was very interesting. It said: This is the first time in six decades we have a chance to win this fight on Social Security. Of course, the whole implication of that is, we have never liked it, but we have had to bear with it. Now we have a chance to deal with it.

The administration, as announced by the President last evening, wants to make some changes. He says the Social Security system is in crisis. He predicted last night that at a certain time the Social Security system would be bankrupt. But it is not in crisis, and it will not be bankrupt. He is simply wrong.

Our colleague, former Senator Pat Moynihan, used to say: Everyone is entitled to their opinion, but not everyone is entitled to their own set of facts. I hope we can discuss this issue using the same set of facts, at least.

Let me begin by saying something most everyone would acknowledge. In the year 1935, when Franklin Delano Roosevelt signed the law that created Social Security to protect our elderly from what he called ''poverty-ridden old age,'' one half of the senior citizens in this country were impoverished. Now it is slightly less than 10 percent.

Has the Social Security program worked? Of course, it has. It has been a remarkable program that has lifted tens of millions of senior citizens out of poverty. It has worked over the years unfailingly.

The President says it is in crisis. It is set to be bankrupt at some point. Therefore, let's make some changes. He says: Let's create private accounts with a portion of the Social Security system and invest it in the stock market.

What he didn't say last night was how he would do that. He would be required to borrow $1 to $3 trillion at a time when we are up to our neck in debt with the highest budget deficits in the history of America. He would borrow $1 to $3 trillion in additional funding, invest it in private accounts in the stock market, cut Social Security benefits at the same time, and say that somehow this is going to be better for our elderly. With great respect—and I

have great respect for this President—he is flat wrong.

I know he is telling us what he thinks will happen in the year 2020, 2040, 2050. Four years ago the President told us what he thought would happen in the next 10 years. He said: We will have the largest budget surpluses in history. Four years later, we have the largest budget deficits in the history of our country. This administration can't see 4 years ahead, let alone 40 years. Economic projections are very uncertain under the best of circumstances. You show me great economists and I will show you people who can't remember their address or their telephone number, but they can tell us with great certainty projections of 40 and 50 years. Of course, that is all nonsense.

All of us hope for a future that has robust economic growth. We hope things will be well. But we don't know. That is why 4 years ago, when the President was saying: We are going to have huge budget surpluses and let's provide very large tax cuts the bulk of which went to upper-income people let's do that right now, I stood up in the Senate and said: Maybe we ought to be a little conservative. What if these budget surpluses don't materialize? What if something happens? Never mind, they said. And so they put in place these policies. We now have the largest budget deficits in the history of the country. They say: What, us? We didn't do that.

Of course, this fiscal policy is way off track.

Now the President said last night that Social Security is broken. It is going to go bankrupt and somehow it must be fixed. He says it ought to be fixed by privatizing a portion of it, by putting it in the stock market and borrowing a substantial amount of money to accommodate that and cut Social Security benefits at the same time.

Let me go through a couple of points about that. This is from Paul Krugman of the New York Times. He says:

> The actuaries predict that economic growth, which averaged 3.4 percent per year over the last 75 years, will average only 1.9 percent over the next 75 years. In the long run, profits grow at the same rate as the economy. . . . Any growth projection that would permit the stock returns the privatizers need to make their schemes work would put Social Security solidly in the black.

His point is an interesting one and central to the discussion. The President says there are serious financing problems with Social Security. He uses language such as ''flat busted'' and ''bankrupt.'' They do that because the Social Security actuaries use a very conservative estimate of economic growth, much below the economic growth of the past 75 years. But then he says: If we put money in the stock market, that will have higher investment returns. And they base these higher returns on higher economic growth.

The point is, if you have the high economic growth that they use to project these returns, the Social Security system doesn't need fixing at all. It doesn't need adjustments at all. It is well and able to be available for the long term. If we get any kind of reasonable economic growth, the Social Security system is fine for the long term. If we don't get the kind of economic growth we would hope and expect, then the investments in the stock market the President wants to make by taking Social Security funding away are not going to provide the returns he promises.

You can't have it both ways. You can't argue both sides of that. It doesn't make any sense. Mr. Krugman is right.

Peter Orszag from the Brookings Institute testified last Friday at a hearing I chaired:

> . . . young workers today in the middle of the income distribution would experience a reduction in benefits of almost 40 percent, or about $9,000 a year, even including the payout from the individual accounts included in the plan.

To better illustrate, this is from the Congressional Budget Office, a nonpartisan office that we rely on. We fund it and rely on it, Republicans and Democrats, for our estimates. The Congressional Budget Office points out the Bush plan would not only slash guaranteed benefits but private accounts don't nearly make up for the loss.

In fact, workers will be worse off than they are now—much worse off, as you can see from the graph. The green represents the guaranteed benefit, and the workers would receive the yellow, which is the income from private accounts. As you see, it falls far short of what they would receive under the current Social Security program.

The Congressional Budget Office, which I referenced, said that the Social Security program can pay 100 percent of its benefits from now until 2052. After 2052, it can pay only 78 percent. That assumes that we have dramatically lower income growth for the next 75 years than we had in the previous 75 years. If we have any reasonable economic growth, we don't have any kind of a problem here. There is no shortfall. In 2052, the Congressional Budget Office says we would be about 22 percent short of paying full benefits. The benefits we would pay then will still be higher than we pay now in real terms.

If all of this happens, we will need to make adjustments in Social Security. But those adjustments don't represent a major surgery or a wholesale operation. They can be reasonably modest adjustments that keep Social Security whole and strengthen Social Security for the long term.

Let me show you what is happening with respect to the trust fund. The money that is taken out of workers' paychecks to put into the Social Security account is now more than is necessary to fund Social Security. This past year, $151 billion more was collected in Social Security than is necessary. That is to be put into a trust fund, not for the purpose of spending on other things, not for funding the war against terrorism, not for highways or health care or law enforcement; it is only for the purpose of funding Social Security. And so the trust funds are made up of Treasury bonds. That is what the money is used to purchase—a Treasury bond. That treasury bond then pays interest. This is what happens to those buildups of assets: $1.68 trillion in 2004. It would be more than that in 2005, an annual surplus in Social Security trust funds. You can see what is happening on this graph all the way out to 2040. That is the taxes that are collected to be put into this account as well as the interest that is earned on these trust funds. You can see what is happening. It is not something that justifies someone calling this bankrupt or flat busted as some do.

Even Mr. George Will, a columnist who is a rather predictable and consistent conservative and has written for many years as a conservative voice, has said that this is not about economics, it is about philosophy. Why did he say that? Because the arguments for the President's plan don't stand on their own in terms of economics. They don't add up, they don't fit, and they don't square with the facts. It is about philosophy. It is about people who have not liked Social Security and would like to take it apart.

If we have any kind of robust growth—this is from the Social Security trustees' annual report—if we have optimistic economic growth assumptions, not the pessimistic ones, on the graph you see what happens: The trust fund assets go up out into the future past 2080. So this notion that somehow that is a crisis, there is an impending bankruptcy, the system is flat busted, is just wrong.

Once again, I respect very much the President. I understand that he has a right to offer these proposals. Some see this as novel and aggressive. He would see it as transformational. I happen to think there are some things that represent timeless truths. There are some values that to embrace is not old-fashioned, or if old-fashioned is worthy of credit. If it is old-fashioned to support a program that has worked well for 75 years and will work for the next 75 years and longer, which helps lift America's elderly out of poverty, then we should just accept the notion and plead guilty to being hopelessly old-fashioned, believing that this is the value that strengthens America.

When those who build in this country—the people who go to work every day, build the private companies, build the manufacturing plants, build the roads and the schools—when they retire and reach their diminished-income years, we don't want them living in poverty. That is why as a country we put together this program called Social Security as a basic insurance program.

Some say—England has gone to private accounts, and Chile, which everybody points to as a country which has

gone to private accounts—that means you can earn more in the marketplace. Let me talk about Chile. In Chile, the only program that exists are those private accounts. You don't have company pensions, for example; you have these private accounts. Do you know what happened in Chile? They are telling old folks: Why don't you delay retirement until the stock market comes back a bit?

That is the experience with Chile. In England, what we have discovered is the companies are charging massive fees, overcharging people. They have had bad experiences with these private accounts. In this country, the Social Security system has been there consistently, and it works. So the question is, why would we want to take apart something that works? There is such an urgency in this Congress to move toward policies that benefit those who are the most affluent. It is always a rush to do that. What about an urgency to support the kind of program that makes life better for those who have reached their retirement years? What about an urgency to support, strengthen, and preserve the Social Security system? That represents an important part of our value system in the Congress.

I know we debate a lot of issues here; some are big, some are little. Some treat the serious too lightly; some treat the light too seriously. Some people think we are just a bunch of windbags in blue suits. I understand that. But there are occasions in which we sink our teeth into something important and have a debate that matters. This is a debate that really does matter.

If President Bush is able to convince this Congress to begin taking apart the basic retirement insurance program that has lifted so many tens of millions of Americans out of poverty in their retirement years, I think this country will have lost ground, not gained ground.

I am not suggesting there are no changes that can be made from time to time. Most people do not realize that in Social Security, a change is being made now. In 1983, when there was a reform package dealing with Social Security, it was decided that people are living longer and better lives. Because of that, the age of retirement had to be increased. So it was—two months a year going from age 65 to age 67 retirement. That is happening. We are on the road, from now until another 20 years from now or so, to take the retirement age to 67. The Congress supported that. The President—Ronald Reagan at the time—supported that. That is underway. Adjustments have been made and will be made. But again, that doesn't justify someone claiming that there is bankruptcy pending in the Social Security program and that we ought to begin taking it apart.

I have told my colleagues previously about my uncle. I will do it again briefly. It describes what is happening in our country. My uncle and aunt went to something called the Prairie Rose Games; I think it was probably 12 years ago. The Prairie Rose Games are the games in our State, like in many States, that give people of different age brackets an opportunity to engage in different sports. My uncle and aunt, I believe, were 72 at the time. They bowl. As they looked at what was going on, they saw mixed bowling. They thought, that is something we can do, so they entered bowling. They had driven down to the Prairie Rose Games in their small RV and pulled up in the campsite and looked at this and said: We are going to bowl.

My uncle, age 72, saw that they had foot races for people 70 and above and for all different age brackets. That was his age bracket. He entered three races. He had never run a race in his life. At age 72, he entered the 400, the 800 and the 3K. He won all three of them. He won all three easily at age 72. He thought to himself, this is really quite extraordinary. I appear to be faster than people my age. So he started running. He went to Minnesota and ran in the Minnesota games, and he went to South Dakota and ran in the South Dakota games. Then he went to Arizona and ran there. He also went to California.

My aunt thought he had a stroke. She thought it was the dumbest thing she had ever seen—this old man going all over the country engaging in races. My uncle has 43 Gold Medals. He discovered he could run faster than anybody his age. He just had a bout of illness, but up until about a year ago, he was still running at age 81.

That would not have happened 20 years ago or 40 years ago. Now people are living longer, healthier, more active lives, and good for them.

So all of these issues, to the extent there might be a strain on Social Security, not bankruptcy, but a strain on Social Security—this is born of success. People are living longer. It is not rocket science to fix these things. Small adjustments can be made if they are needed to be made. But given what is happening with our elderly in this country living longer, needing to rely more on Social Security—no one should decide now is the moment to turn our back on them. That does not make any sense. Or to decide a program that has enriched the lives of so many tens of millions of Americans somehow ought to be taken apart. Why? For philosophical reasons.

One of the leading conservative voices of the far right said Social Security is the soft underbelly of the welfare state. That tells you a little something of what is going on, doesn't it? It is not a worthy program; it is some sort of welfare. It is not, of course. People pay for their Social Security insurance. They paid for it every month they worked out of their paychecks. And when they reach retirement age, they do not know a lot of things, but they know this: That this country, as good as it is, as big as it is, as wealthy as it is, as generous as it is, and as consistent as it is in values will continue to maintain a Social Security program that people paid for so that it is there.

It is certain to be there. It is not the risk part of retirement. It is the guaranteed part of retirement because people paid for it.

We have also said, in addition to Social Security, we want everyone to save more for retirement. So we have 401(k) plans, IRAs, and we say you get tax incentives for this and that. I support all of that. In fact, I believe we ought to have a two-step program instead of the President's plan as he outlined it last night.

The first step is to preserve and strengthen the Social Security program as it now exists for the long term, and we can do that without breaking a sweat. The most important thing is to preserve, protect, and strengthen Social Security. Don't take it apart. Preserve it and commit our country to do that.

Second, provide dramatic new incentives for retirement savings programs, IRAs, 401(k)s, and all the other programs we have to try to convince people to save more and invest more. I support that. That makes sense. But we ought not mix the two and decide to take apart Social Security and borrow $1 trillion to $3 trillion, stick it in the stock market, and cut Social Security benefits. That is a giant step in the wrong direction. We can do better than that. This Congress can do better than that, and the American people deserve better than that.

As I said before, this is about values and priorities. For example, you can fix whatever adjustments are necessary in Social Security by deciding that the tax cuts given to those whose incomes are half a million dollars a year or more need not continue.

Here is the choice: Tax cuts for people with half a million dollars a year in income or more, or make Social Security whole for 75 years and longer. That is the choice. That is just one of a dozen choices. It is an easy choice. It is a values question. What really is our set of priorities with respect to our commitment to America's elderly? What kind of country do we want to have? What do we think enhances and promotes value in this country?

Finally, as I have told my colleagues many times, I grew up in a town of 300 people. It is a town that had its own programs without Government, people taking care of people. It would be nice if that were the case all across the country, but we know that is not the case. So we put together certain efforts to incentivize people to take care of themselves, to invest for the future, to save for the future.

One part of that is Social Security. From 1935 until the year 2005, we can be proud of what this important Social Security program has done for our country. We ought to, in the spirit of Franklin Delano Roosevelt and in the

spirit of tens of millions of lives that have been enriched and pulled out of poverty because of this program, be dedicating ourselves to preserving and strengthening Social Security, not taking it apart, not borrowing money, not sticking Social Security money in the stock market, and not continuing to spend Social Security trust fund revenue on something for which it was not intended. But instead we should be putting our shoulder to the wheel and doing the right thing for this country.

We will have a great debate about this. A lot will be said about it. I do not attempt to tarnish anyone else who feels differently. I have respect for the President. We have a disagreement. I will not denigrate those who have a different feeling or who oppose my position, but I must say I feel very strongly about this issue because I think it is part of the core value system of this country.

This is a great, big, strong, wonderful, generous country, and doing the right thing is not very hard for this Congress in this circumstance.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX BREAK FOR COMPANIES

Mr. DORGAN. Mr. President, I will take just another minute. I understand none of my colleagues wish to speak. I was speaking without notes, so I did not mention something I intended to mention. Most Americans do not know that at the moment there is a flurry of activity going on that also relates to values.

This Congress, last year, passed legislation that contained a provision that is just Byzantine. It provides a tax break to companies that have, in many cases, moved their U.S. jobs overseas, earned income overseas, kept the income over there, and, under what is called a deferral, are not having to pay taxes on it in this country.

We have a tax break for companies that shut down their American plant, move their plant overseas, earn income overseas, do not bring the income back, and they get what is called a deferral. They do not pay taxes.

At some point, however, when they want to bring their income back to this country, they have to pay income taxes just as Americans do, and the companies that stayed here do, and the people who work for those companies do. Except last year, this Congress decided to give a big break to those who would repatriate their income from overseas profits.

There is some $600 billion in income earned overseas that has not been repatriated and on which income taxes have not been paid. So guess what. This Congress said to all those big companies that made all this income overseas, some of which was made by shutting down their American plant and moving the jobs overseas: If you bring that money back, we will give you a deal. You get to pay income tax at the rate of 5.25 percent—5.25.

Do you know of anybody else working in this country who gets to pay a 5.25-percent income tax. How about the people working at the 7–Eleven at the counter, a person who is changing oil in a car, a person who is working on a road crew, do you think any of those people are paying 5.25-percent income tax on their earnings? No, they are not. The lowest bracket in the income system in this country is 10 percent, and it goes up to 35 percent. But now we have a new low bracket, and it is a special bracket. For those who earned income overseas and now repatriate the income to this country, some of which came as a result of moving American jobs overseas, they get to pay income taxes at 5.25 percent.

It reminded me of that great old song by Tom Paxton, ''I Am Changing My Name to Chrysler.'' This country gave a big loan to Chrysler many years ago when Mr. Iacocca was with Chrysler. It was very controversial. Tom Paxton wrote a song. He says:

> Oh the price of gold is rising out of sight
> And the dollar is in sorry shape tonight.
> What a dollar used to get us
> Now won't get a head of lettuce
> No the economic forecast is not bright.

Then he goes on to talk about who gets the benefits and who pays the bills. At some point, I will read the entire lyrics to this song.

It is a little like my colleague from Texas who knows about Bob Wills and his Texas Playboys, a lyric from a song of the 1930s that goes: The little bee sucks the blossom but the big bee gets the honey. The little guy picks the cotton and the big guy gets the money.

Guess what. There is a lot of that spirit in the breasts of those who serve in this Congress who believe we ought to offer a 5.25-percent income tax rate to just a special group of people, those who have some $600 billion parked overseas.

What about a 5.25-percent income tax rate for all Americans? Or what about charging those who repatriate that income the regular income tax rate and put that money into the Social Security system? Once again, it is a question of priorities and values and this Congress came up short on this issue.

Very few people know that at the moment there are lawyers, accountants, and business executives scurrying around trying to figure out how they are going to take advantage of a special income tax rate that only they get, and the folks who work hard in this country and take a shower at night because they worked in tough conditions all day, they get to pay 10, 15, 25 or 30 percent income taxes. Maybe, as Tom Paxton said in ''I Am Changing My Name to Chrysler,'' we need to change our name so we get some of that 5.25-percent income tax rate. Maybe ordinary Americans ought to get some of that. Again, it is about values and about priorities.

I am going to talk more about this subject because the American people need to understand what this Congress did. It is about cotton and honey and big guys and big bees, and I will talk more about it in the future. I was thinking about it while I was talking about Social Security and priorities and values. It is something the American people ought to understand. There is a special deal out there and it is not for them, regrettably, because this Congress decided they are not worthy. It is just the big interests that are worthy of the 5.25-percent income tax rate.

HONORING THE 94TH ANNIVERSARY OF PRESIDENT RONALD REAGAN'S BIRTH

Mr. ALLEN. Mr. President, I rise to speak about an American success story. It is one that ended, at least his life on Earth, in June of last year. It is to the story of a man who rose from humble beginnings and surroundings to become a leader. In fact, he became one of, if not the greatest leaders, in the 20th century, and I am talking about President Ronald Reagan.

This coming Sunday, February 6, would have been President Reagan's 94th birthday. I hope this weekend, when so many people in America will be watching the Super Bowl and all the festivities surrounding it, they will take a moment to remember not only Ronald Reagan's birth but to reflect on the positive impacts his life has had on so many people in America and around the world.

He was a man who stood strong for enduring foundational principles in the face of conflict and adversity at home and who faced down the Communist menace abroad. Through it all, he never lost touch with the decency and the morality of America that we aspire for in our leaders and indeed all of our citizens.

A few weeks ago, I took what I called a Ronald Reagan pilgrimage with my wife Susan and our three young kids to southern California. We went to the gravesite of the Reagan Presidential Library. There is also a museum, which is wonderful, and tells his whole life story.

We also trekked up through all the rains and floods and fog, up to Rancho del Cielo, the Reagan ranch. There, at that ranch, you see the core of Ronald Reagan, the substance of him. He spent 1 out of 8 days as President up at this ranch, which is 600 acres. It is a very humble place—small, as far as the housing. It had a small shower. He must have been elbowing that shower all the time, trying to take a shower there. That is where he rode his horses, cut wood, trimmed trees. You could see

this is how Ronald Reagan kept his common sense. This is where you see the essence of the man, why he was so well grounded so that he could somehow see the future and keep the inspiration and appreciation of the grandeur of God's creation with the beauty of the trees and the rocks and mountains and the animals, but also recognizing what is great about this country, and the hard work and the personal strength it takes to do various things.

Ronald Reagan was a modern-day hero who embodied all that was great about George Washington and the spirits enunciated by Thomas Jefferson. His perseverance, his strength, his commitment to principle are lessons that taught me and taught many others. He was the person who inspired me and many others to get involved in organized politics and into public service. Today, thanks to Ronald Reagan, as I saw Ambassadors on the House floor from Lithuania, from Romania, throughout Central Europe—those were hundreds of millions of people who were behind the Iron Curtain. But, thanks to Ronald Reagan's perseverance, for his belief in the dignity of all human beings, that all people do yearn to be free, to exercise their God-given rights, those people who were behind that Iron Curtain, who were enemies, are now tasting that sweet nectar of liberty. They are our friends. They are our allies in this war on terror. Their numbers are growing, with greater hope and prosperity. Ronald Reagan helped make sure this century is the century of liberty.

While President Reagan's life here on Earth is over, his legacy continues to endure, motivate, and inspire me and others here in America and around the world. I hope on this weekend we will think of Nancy Reagan, say a prayer for her, remember and also thank God for one of the greatest blessings He has provided to us and that is the birth of Ronald Wilson Reagan.

Mr. President, I yield the floor. I see my wonderful partner and colleague from Virginia, Senator WARNER, has joined us.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I compliment my colleague for his thoughts about Ronald Reagan. With a great sense of humility and modesty, I recount one story of an experience I had with him. He loved our State of Virginia, by the way. So often on the weekends he would come down into the vicinity of where I, in those days, had a farm. He would call up and say: Hey, let's go riding.

He was the President of the United States. I said: Fine, Mr. President, where and when?

He said: Right there, on your place, just set it up.

Just as you said, Senator ALLEN, he loved the outdoors. But I remember one day we brought the horses in and were getting them ready—I had a wonderful man who used to be working for me, and my man was putting the saddle on my horse and cinching him up. Along came the President's horse. I said to my man: Let's go over there and help the President put his saddle on the horse. We walked over there and the President said: I do my own saddle. No one touches my tack. I am going to do it.

He grabbed that big old western saddle he had, put it on the horse, cinched him down, and then he went over to help Nancy put her gear on, and off we rode, across the hills of Virginia. Eventually, we stopped up on a hill. It was a hot day in August and the flies were bothering the horses, and the Secret Service guys were having a dickens of a time staying on the horses.

He checked the horse and looked down in the valley. Senator ALLEN, he recounted to me with great specificity every step of the valley campaign. How the northerners marched down the valley and then the southern troops, Confederates, would drive them back up, and Stonewall Jackson, and on and on.

Frankly, as much time as I have spent in that valley—I went to school at Washington & Lee University—I learned facts from our President at that time about the history of Virginia.

He loved America. He loved the outdoors. He loved his history and he loved his people. You captured him beautifully in your remarks. I congratulate you, my friend.

Mr. ALLEN. I thank my colleague.

THE IRAQI ELECTIONS AND U.S. POLICY IN IRAQ

Mr. HATCH. Mr. President, I rise today to speak of the historic Iraqi elections and the President's message last night.

This past Sunday, the world watched as millions of Iraqi people headed to the polls to participate in their first free election in more than 50 years.

In doing so, the Iraqis defied the terrorists and they risked their lives for what was, for most, the first exercise of democracy in their lifetimes.

Not only did the Iraqi people defy the terrorists, but they defied the skeptics—some of whom could be found in Iraq itself, many others throughout the international community, and, disappointingly, even here at home. Many said that the elections were too soon, that the Iraqi people wouldn't dare come out of their homes to vote, and worse, that the Iraqi people weren't ready and didn't desire freedom.

Though the votes have yet to be tallied, the millions of Iraqi voters that turned out on Sunday underscore the truism that people desire to be free.

And one of the most fundamental political freedoms is the freedom to choose your government. What we saw on Sunday should not surprise Americans: When given the opportunity to be in charge of their own destiny, citizens of all nations will not only turn out in great numbers, but they are willing to sacrifice their own lives for the opportunity to live in a free society.

I agree with one of America's most perceptive analysts on the region, Fouad Ajami, who said that on Sunday we bonded with the Iraqi people, because they were doing the most American act: voting.

As a strong supporter of our President and his policy in Iraq, I am always encouraged by my fellow Utahns who believe America should stay the course, fight on, and finish what we started. Utahns appreciate the sacrifice and courage of our troops, and those of the Iraqis who deeply appreciate our commitment.

Earlier this week, I read that the mayor of Baghdad even wants to erect a statue to President Bush, calling him the ''symbol of freedom.'' When asked if he was concerned about the many threats on his life, Mayor Ali Fadel said, ''My life is cheap, everything is cheap for my country.''

He also said, ''We have a lot of work and we are especially grateful to the soldiers of the USA for freeing our country of tyranny.''

We saw this gratitude again last night when the daughter of a man killed by Saddam Hussein's thugs was hugged by the mother of a Marine who gave his life in Fallujah.

Some may erroneously dismiss that as crafted drama. For me, that moment in the State of the Union will forever capture America's mission of spreading freedom in this world.

I have tears in my eyes because I remember many years ago receiving notice that my brother had been killed in the Second World War fighting for the freedom that Sergeant Norwood fought for over in Iraq—fighting for the freedoms for Europe and the world.

Many of our soldiers risking their lives in Iraq are my fellow Utahans. I am both proud and impressed with their willingness to serve their country and help the Iraqi people establish a free and democratic government.

Just yesterday, a group of 100 Utah National Guard men and women, in addition to the 500 that left just a week before, were deployed to bases in the U.S. for training, after which they will move to Iraq, where they will continue to serve for 1 year.

We have had Utahans over there serving beyond the term they were supposed to serve.

We have had Utahans over there serving beyond the term they were supposed to serve. I know they will serve well and, I pray for their safe return home to their loved ones and families.

We all understand that this election was just one more step on the path to a free and democratic Iraq. But, it was an enormously important step.

I commend our President, our brave men and women in uniform, and especially, the freedom-loving people of Iraq.

President Bush began his speech last night recognizing that he serves at the privilege of the voters, and that, today,

an Iraqi government is forming based on the voters' selections, as a new government is in place in the Palestinian Authority, and in Afghanistan.

One of the President's greatest virtues, in my opinion, is his humility, and the recognition that we serve at the voters' behest is the fundamental virtue of leadership in a democracy.

To recognize that humility is to accept the responsibility that democratic leadership must always be open and transparent and compelling to the electorate.

Over the past 4 years, President Bush has often spoken directly and honestly to the American people, about the uncertain threats before us, and about the responsibilities we need to shoulder to defend our freedoms.

At the beginning of my remarks I said that one of the most fundamental political freedoms is the freedom to choose your government.

An even more basic political freedom is the freedom from tyranny or terror.

To be secure from the carbombers, from the dreaded knock on the door in the middle of the night, from the capricious order of the dictator, are necessary for freedom to be sustained.

Last night the President again stated his vision of how our security is dependent on expanding the zone of freedom to regions of the world where for too long threats to our security incubated.

Iraq will never be fully free until the Iraqi people can provide for their own security, and the President made it plainly clear again last night that our mission will not be finished until we have trained an effective Iraqi force to assume their security. To leave before then, or to announce a departure before we know we have achieved this goal, is to undermine our mission and devalue our sacrifices.

Those who call for an exit date before knowing we have succeeded care not for our success nor our security.

We know there remains much work to be done. No one called for an exit date before we had victory in World War II, a war where America made enormous sacrifices, including my only brother.

No one called for an exit strategy during the twilight years of the Cold War.

No one, after the collapse of the Soviet Empire, set an exit date for our efforts to support democratic transition in central and eastern Europe. We build our policies on victory, magnanimity, democracy and freedom

While we will not set an exit date, we do have an exit strategy; that is, once we have trained enough security people and police people to take over and to protect and care for their own country, once we have helped to bring up their structure, witnessing that there is a degree of security, peace, and freedom in Iraq beyond where it is now, we are going to pull our young men and women out of there. Let us hope that happens sooner rather than later.

Listening to President Bush's speech last night, I know he understands how to protect America's security. Even more, he understands America's role in a challenging world. President Bush has charted a course as bold as he is, and it is incumbent upon the Congress and the American people to support him in this most important effort.

BLACK DAY IN CAMBODIA

Mr. MCCONNELL. Mr. President, today was yet another black day in Cambodia's history and for freedom. However, given the nature of the current regime nobody should be surprised by this latest assault on liberty.

Behind closed doors, the country's rubber-stamp National Assembly executed the devious plan of FUNCINPEC Party head Norodom Ranariddh and CPP hardline Prime Minister Hun Sen to undermine the democratic opposition led by Sam Rainsy.

In a series of secret votes, Rainsy and SRP parliamentarians Chea Poch and Cheam Channy were stripped of their parliamentary immunity. The three now face trumped up charges that place their fates in the hands of a corrupt government that is infamous for its human rights abuses and injustices against the Cambodian people.

This is outrageous and unacceptable.

It should now be clear to everyone that Norodom Ranariddh has cast his lot with CPP hardliners. This is a slight against all FUNCINPEC members who continue to support democracy and justice in Cambodia, and a grave dishonor to those who have given their lives in the struggle for freedom.

The State Department has been following the situation closely, and I commend the efforts of Ambassador Charles Ray and his staff for promoting reason and the rule of law during this latest charade. I encourage the State Department to respond in a forceful and appropriate manner, including compiling a list of those individuals who voted to strip the immunity of SRP members. They and their family members should be prohibited from entering the United States. Such action is consistent with the President's Proclamation of January 12, 2004.

I encourage other donors to publicly condemn the actions of the National Assembly, and to consider sanctions against the Cambodian government. Any activities with the National Assembly should be immediately and indefinitely suspended.

Donors should know by now that there is no progress or development in Cambodia without democracy—and what little democracy existed prior to the votes has been stripped away. An opportunity exists for the tough talk of donors during the last consultative group meeting to be followed by concrete actions. They must not miss it.

I strongly advise all international financial institutions—particularly the World Bank and the Asian Development Bank—to add their voice to their chorus of concern and to consider a suspension of operations in Cambodia until the corrupt leaders get the message that tyranny will not be tolerated.

Those who have pledged resources for the Khmer Rouge tribunal may now want to reconsider—the actions of the National Assembly underscore that there is no justice in Cambodia today. It is ludicrous to believe that the country's legal system, even with outside participation, will function in a professional and independent manner. Let me be clear that justice is unquestionably needed for the millions of victims of the Khmer Rouge genocide in the 1970s, but justice is also needed for more recent crimes in Cambodia, including the 1997 grenade attack against Sam Rainsy and his supporters and the murders of Om Radsady and Chea Vichea.

Finally, I encourage King Norodom Sihamoni to find his voice during this political crisis. The world awaits an indication of the character and priorities of the new monarch.

Hun Sen and Ranariddh underestimate the resolve of the United States, as articulated by President Bush in his inaugural address and again last night, to stand by those championing freedom and liberty. Today, we stand with Sam Rainsy, Chea Poch and Cheam Channy and add our voices to their demands for democracy and justice. I hold Hun Sen and Ranariddh responsible for the security and the safety of these individuals—now and in the future.

As Chairman of the Foreign Operations Subcommittee, I would remind Cambodian officials that my staff and I will be putting together the fiscal year 2006 foreign aid bill over the coming weeks and months. Hun Sen and Ranariddh should know that Washington—and the world—are watching.

DEATH OF GEORGIAN PRIME MINISTER

Mr. MCCONNELL. Mr. President, I take a moment to share with the Senate the very sad news from Georgia this morning that Prime Minister Zurab Zhvania has died in what Georgian officials are calling an accident.

According to government statements, he apparently suffocated during a meeting with his friend and Georgian deputy governor, Zurab Usupov, from a gas leak in a space heater. Mr. Usupov also died.

We send our condolences to his wife, three children and the people of Georgia. Prime Minister Zhvania led a crusade for freedom and democracy in Georgia that brought about the Rose Revolution.

As Prime Minister, he led the fight to root out corruption and set Georgia on a new path where democratic institutions could flourish. At the time of his death, he was advocating a peaceful resolution to the problems in South Ossetia.

We mourn his death. People throughout the world, who believe in freedom,

democracy, human rights, and the viability of peaceful political opposition in a political struggle, mourn him as well. He will be missed.

TRIBUTE TO VERNON COOPER, JR.

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a world traveler who always comes home to his beloved Hazard, KY, Vernon Cooper, Jr.

Mr. Cooper has fought in Asia in World War II, skinned seals with Eskimos in the Arctic, and climbed mountains in the Andes. But after all those vast experiences, his Perry County home in eastern Kentucky holds a prime place in his heart, and he expresses this through great generosity.

Mr. Cooper, 81 and the former president of Hazard's People's Bank and Trust Co., is happy to give back to his community. A year ago, he learned that the sheriff of Perry County planned to lay off all of his deputies at Christmastime because of a strained budget. Mr. Cooper donated $20,000 to the county to keep the deputies in uniform over the holidays.

A 1941 graduate of Hazard High School, Mr. Cooper donated $120,000 to install lights on the school's baseball fields. Parents are thrilled they can now watch their children's night games. And if they ever want to thank their patron, they don't have far to look—Mr. Cooper still attends games, wearing his Hazard High School jersey with the name ''Bruiser''—his World War II nickname across the back.

Mr. Cooper has also filled in as a guest host at WLJC, a Beattyville, KY, Christian radio station. When he learned of their hopes to reach a larger audience, he donated $50,000 for a new transmitter. Now three times as many homes as before receive WLJC's signal.

Perhaps Mr. Cooper's largest gift of all was the gift of life. He donated over $200,000 to the Appalachian Regional Healthcare Regional Medical Center in Hazard to build an open-heart surgery unit.

Before Mr. Cooper's gift, Hazard-area residents had to travel over 60 miles for an open-heart procedure. The new unit admitted its first patient this month, and its director hopes to perform around 100 open-heart surgeries this year.

Kentucky's greatest resource has always been its compassionate, friendly people. To any who doubt this, I direct them to look at Vernon Cooper, Jr., as a model for all of us to follow. I ask the Senate to join me in recognizing a man who generously wants to give as much back to Kentucky as it has given to him.

Mr. President, recently the Courier-Journal published a story about Mr. Cooper, ''Hazard Man, 81, shares his millions with others.'' I ask unanimous consent that the full article be included in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, Jan. 22, 2005]

HAZARD MAN, 81, SHARES HIS MILLIONS WITH OTHERS; DEPUTIES, SCHOOLS, HOSPITAL GET GIFTS

(By Alan Maimon)

HAZARD, KY—When Vernon Cooper Jr. takes interest in a cause, he lets his checkbook do the talking.

Because of Cooper's largess, eight Perry County sheriff's deputies kept their jobs during Christmas 2003, a Beattyville television station tripled its potential viewership, and school baseball and softball teams in Hazard now play under the lights.

His latest gift—of more than $200,000—helped build an open-heart surgery unit at a Hazard hospital.

Cooper, who is 81 and former president of People's Bank and Trust Co. in Hazard, said he is a multimillionaire who has made a hobby out of giving back to his community.

''I've been around the world, but this is the most special place in the world to me,'' Cooper said at his mountaintop home.

''Hazard is my home, and where's there a need I like to help.''

Just over a year ago, Perry County Sheriff Pat Wooton was facing a blue Christmas as he prepared to lay off all his deputies because of a tight budget.

Cooper heard about the situation and pledged $20,000 to Perry Fiscal Court to keep the officers on the job until officials could allocate more money to the department.

''He's a very civic-minded individual and has been for a long time,'' Wooton said. ''He has made significant contributions to so many areas in Perry County.''

Cooper said he has given hundreds of such gifts over the years.

BRUISER'S GIFT

A deep-rooted sense of school spirit led him to make the largest contribution in the 92-year history of the Hazard Independent School District.

Cooper, a 1941 graduate of Hazard High School and a former school board member, wrote a $120,000 check in 2003 for the installation of lights at the high school's baseball and softball fields.

District Superintendent James Francis said the lights have helped Hazard attract regional tournaments and allowed working parents to see more of their children's games.

''No one has been more instrumental in the progress the school district has made,'' Francis said.

Cooper still prowls the sidelines of Hazard football games wearing a jersey with ''Bruiser''—his World War II nickname—across the back.

UK DONATION

In 1999, Cooper's generosity had unintended consequences when he mailed a $500 check to the University of Kentucky to help pay for a summer football camp.

An internal investigation of the football program showed the check was endorsed by former UK football recruiting coordinator Claude Bassett and sent to a high school football coach in Memphis, Tenn.

University officials said any gifts to UK should pass through its Office of Development and be deposited in university accounts. Cooper was not accused of any wrongdoing.

Bassett was fired, but Cooper did not let the incident dampen his generous spirit.

''I learned a lesson that not everybody can be trusted, but most people can,'' he said.

The incident also reaffirmed for Cooper the importance of getting receipts for his donations.

''That's all I ask for in return,'' he said. ''I need a receipt, so I won't have problems with the government.''

Cooper, a 1949 UK graduate, said he now opts to build strong relationships with organizations before parting with his money.

Cooper recently gave $50,000 to WLJC, a television and radio station in Beattyville whose call letters stand for Wonderful Lord Jesus Christ.

Jonathan Drake, manager of WLJC, said the money helped buy a transmitter that nearly tripled the number of homes the station reaches.

''He is a man with a very large heart,'' Drake said. ''He got to know us, was a guest host for us and then really helped out.''

HOSPITAL GIFT

One of Cooper's largest gifts to date arrived in several installments to the Appalachian Regional Healthcare Regional Medical Center in Hazard.

Charles Housley, the hospital chain's executive director of development, said the gift went toward building an open-heart surgery unit in an area that has lacked such a facility. Cooper said the amount was $200,000, but Housley said it was more, declining to be specific.

Ashland, Pikeville, and London—each more than 60 miles from Hazard—had been the only Eastern Kentucky towns to offer the open-heart procedure.

''We hope to give him some recognition for that,'' Housley said.

The Hazard hospital admitted its first open-heart patient earlier this month and expects to perform around 100 surgeries this year, Housley said.

WHAT'S NEXT?

Cooper said his fondness for philanthropy stems from a love of the mountains of Eastern Kentucky, something he first recognized during a four-day train trip to a California naval base in 1943.

When the then 22-year-old sailor returned from World War II service in Asia, he dreamed of seeing the world but vowed always to return to the Appalachian communities he held dear.

A blind date in 1945 led to marriage. Cooper said he and his wife separated about 25 years ago but remain married. His wife could not be reached for comment.

In his home, Cooper has pictures of himself climbing some of the world's largest mountains. He said he has skinned seals with Eskimos, and he has a jacket identifying him as an honorary colonel in the Argentine army.

But during his travels from the Arctic to the Andes and the Alps, he said he has always had Kentucky on his mind.

Standing beneath the observatory above his home on a recent afternoon, Cooper contemplated his next act of good will.

''I have some things in mind,'' he said. ''There are a lot of worthwhile places out there.''

WORDS OF WISDOM

Mr. REID. Our friend and colleague, Senator Ernest Hollings of South Carolina, left us last year to enjoy a well-earned retirement. However, he still has a few words of wisdom, and just a little vitriol, that he would like to share.

Senator Hollings was one of the most fascinating speakers ever to take the Senate floor. His comments were sometimes controversial, but always thought-provoking and delivered in a way only Fritz Hollings could orate. We miss him.

I ask unanimous consent that the statement of Senator Hollings be printed in the CONGRESSIONAL RECORD. I may not agree with all his statements, but as usual I thoroughly enjoyed reading it. I hope all Americans will enjoy it as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF THE UNION

On leaving the Senate after 38 years, I am constantly asked ''what is your legacy?'' Answer—a mess! While the country is going broke and jobs are hemorrhaging, G.I's are getting killed in an unwinnable war, and nobody cares. At least there is no sacrifice. In Washington Republicans and Democrats are in a Mexican standoff. Amid shouts that Social Security is ''flat broke'', the nation's security is being undermined.

Our security rests as on a three legged stool. The first leg—values—has always been the strongest. The United States has always been admired for its sacrifice for human rights and freedom. But our invasion of Iraq has created a training ground for terrorists and given Islamic television Al Jazeera a daily drumbeat of U.S. ''atrocities.'' The second leg—economic—enjoyed its strongest era in the 1990's with low inflation, record growth and a strong dollar. The budget was balanced in 2001 with the recession lasting less than 9 months. But the tax cuts of the last four years caused deficits of $141.1 billion, $428.5 billion, $562 billion, and $593 billion. These fiscal deficits together with a trade deficit of 600 billion have the dollar in a dive. With our outsourcing of jobs policy the United States is fast losing its productive capacity. Finally, the third leg—military—has us again, as in Vietnam, losing. For the first time regulars in the Army are suing against extended duty and Americans are refusing to join the Guard and Reserves.

The need is to rebuild America. To get Congress to lead the rebuilding we must excise the cancer of money on the body politic and adopt a constitutional amendment: ''The Congress of the United States is hereby empowered to regulate and control spending in federal elections.'' This will immediately limit campaigns, and cut the time raising money. Next, limit each senator to two committees—no exceptions. Then cut the staffs. Now the Senators will have time to work on the people's business rather than the campaign.

The first order of business is to get on top of health costs and provide healthcare for all of America. Next, instead of tax cuts enact a 2 percent VAT tax to pay for Iraq, Afghanistan and to eliminate the deficit. This will limit our disadvantage with global trade and strengthen the economy. Then resume Cordell Hull's reciprocal free trade policy by: instituting a Department of Trade and Commerce bringing the Special Trade Representative and other trade entities under one roof; abolishing the International Trade Commission transferring it's duties to the International Trade Administration; eliminating the tax benefit for jobs going offshore and giving the break to businesses producing onshore; appointing an Assistant U.S. Attorney General to enforce trade laws; employing the necessary customs agents to stop transshipments; enlarging rather than eliminating the Advanced Technology Program; and reviewing our membership in the World Trade Organization.

Then provide the needs of air, rail and port security. Adopt an energy bill, a highway bill and begin to control the immigration and drug problem by adopting a Marshall plan for Mexico.

Finally confront the terror that confronts us. It's not the terror of Northern Ireland or Spain. It's not because of who we are or our values. It's because of our Israel-Palestine policy that appears one-sided. We confirmed this appearance with our invasion of Iraq. Terrorism got organized and spread. Now our problem is we are neither in nor out. It's too late to get in with the necessary troops so the best way to support the Iraq election is to remove ourselves as ''occupiers.'' As former Senator George Aiken of Vermont said ''declare victory and withdraw.'' Then have the Commander in Chief go to the front line of terrorism and instead of proclaiming ''road maps'' on high, have him get down in the traffic for peace.

None of this will happen unless the media gets out of politics. Of course they make more money taking polls and exciting controversy. But now the free press has abandoned its important role of maintaining a strong democracy. Thomas Jefferson signaled this responsibility when he observed; ''between a government without newspapers or newspapers with out a government'' he would chose the latter. The press used to report the truth to the American people and keep the Congress honest. Instead the press is downfield starting the fight instead of reporting the facts. The fact is that Social Security has a surplus of $1.7 trillion and is in good shape until 2042. The fact is that the states readily regulate tort reform. The fact is that while the IRS can always stand some reform we can't afford a tax cut at this time. Rather than playing politics with these issues the press should be reporting the State of the Union.

IN MEMORY OF TONY ARMSTRONG

Mr. REID. Mr. President, I rise today, to honor the memory of a great Nevadan, Tony Armstrong, who passed away last Saturday morning.

Tony was the mayor of the town of Sparks, NV, and I had the privilege of working with him in that capacity.

But I rise today not to praise Tony Armstrong the mayor, even though he was a great mayor.

I want to praise Tony Armstrong the husband, the father, the friend, the neighbor.

I rise to praise Tony Armstrong the man who made a positive impression on everyone he met, through the force of an engaging personality that reflected his basic love of people.

Tony spent most of his life in Sparks. He was born in Philadelphia, but his family moved to northern California when he was a toddler, and settled in Sparks when Tony was 4 years old.

Tony attended school in Sparks, and when he graduated high school he joined the Nevada Air National Guard. After serving on active duty for several years, he returned to Washoe County in 1973 and got a job as a building inspector.

In 1983 he married Debbie Rimby, and a couple of years later he started his own contracting company, which later became a private inspection firm.

He first ran for public office in 1987, when he failed to win election to the Sparks City Council. But like many of us who have lost elections, he learned from that experience and it strengthened his determinaton. He came back 2 years later and won a seat on the city council. Ten years after that, in 1999, the people of Sparks elected him as their mayor.

He was a popular mayor, guided always by his love of Sparks, his appreciation of the city's history, and his vision for the future.

Tony worked to preserve the best aspects of Sparks, the friendly atmosphere that make it such a wonderful place to raise a family, and at the same time, improve the services and amenities.

He realized that the great quality of life in northern Nevada meant that Sparks would continue to grow, and he worked to manage that growth so it would benefit the citizens of the city.

During the 14 years that he served as a city councilman and mayor, Sparks grew from a sleepy little railroad town to a city that is home to about 80,000 people.

He oversaw the development of a project called Victorian Square, which preserves and revitalizes a historic area, and the Sparks Marina. I had the privilege of working with him on that marina project.

He was a tireless champion for his city. Sparks and Reno share a convention center and airport, and Tony Armstrong was constantly working to make sure Sparks wasn't overshadowed by its larger neighbor.

Tony also spearheaded the Sparks Centennial Commission, which is celebrating the city's 100th birthday this year.

There is no question that the city will miss his leadership. And the people of Sparks will miss Tony's warm smile and his friendly conversation.

The man who preceded him as mayor, Bruce Breslow, put it simply. ''He made everyone around him feel important,'' he said of Tony.

Another friend, Mary Henderson, said, ''His smile was as bright as a northern Nevada sunrise.''

Mary Humphries met Tony last spring, when they both welcomed attendees to a Sertoma convention in Sparks. After sitting with him for half an hour, she felt as if they had been friends for years.

Tony's daughter has multiple sclerosis, and 2 years ago at an MS walk, he struck up a conversation with Steve Mattos, a Reno man whose wife also has the disease. Tony told Steve that he was taking his daughter to Stanford Medical Center for some experimental tests, and Steve asked him to pass along any information that might be helpful. From that day forward, Tony regularly sent e-mail updates to a man he had met in person only that one time.

Another person who will never forget Tony is Tina Cline. Her husband, Marine LCpl Donald Cline, was killed in Iraq in 2003. At his memorial service, a tearful Tony introduced himself to Tina, hugged her and gave her his home phone number. After Tony's death last weekend, Mrs. Cline posted a message on the web site of the Reno Gazette Journal. ''He has been one of the most helpful men I have ever known,'' she said.

Those are just some of the ways the people of Sparks will remember Tony Armstrong. He was only 59, and his death from complications after surgery was a blow to everyone who knew him.

Tony is survived by Debby, his wife of 21 years; his sons Richard and Keith; his daughter Misti Franco; four grandchildren, and three brothers. Please join me in offering condolences to them on the loss of their loved one.

Tony Armstrong will be missed by many people in many ways, but our memories of him will never be extinguished.

HONORING OUR ARMED FORCES

CORPORAL NATHAN A. SCHUBERT

Mr. GRASSLEY. Mr. President, I rise today in honor of an Iowa Marine who has fallen in service to his country in Iraq. Marine Corporal Nathan A. Schubert, of the 1st Battalion 3rd Marine Regiment, was killed on January 26, 2005 when his helicopter crashed during a sandstorm near Ar Rutbah, Iraq. The helicopter carried Corporal Schubert and thirty other Marines who were part of a security mission to aid in the safe conduct of the national democratic elections last Sunday. He is survived by his mother, Cheryl Winklepeck, a sister, Elizabeth Householder, and a brother, Matt. Corporal Schubert died one day before his 23rd birthday.

A native of Cherokee, IA, Cpl. Schubert attended Washington High School and went on to continue his studies at Kirkwood Community College in the fall of 2001. Just weeks after the terrorist attacks on September 11, Nathan Schubert enlisted in the Marines to fulfill what he saw as his patriotic duty. Describing Corporal Schubert as a friendly, likable, and patriotic young man, his brother noted that he ''lived life to the fullest.''

I ask all of my colleagues in this body and all Americans to remember with respect, admiration, and gratitude this courageous Marine who made the ultimate sacrifice in the name of the principles we value most as Americans: freedom, democracy, and justice. Corporal Schubert died honorably while supporting and defending these values by aiding the birth and development of democracy in Iraq. He is to be commended for his bravery as he joins the honorable ranks of those Americans who have gone before him in service of their country. My prayers go out to Nathan's family and friends and my greatest respect and appreciation go to Cpl Nathan A. Schubert.

A STEP BACKWARDS IN NEPAL

Mr. LEAHY. Mr. President, earlier this week, for the second time in less than 3 years, King Gyanendra of Nepal dismissed the multiparty government and declared a state of emergency suspending fundamental constitutional rights. Apparently, he will assume the duties of the deposed Prime Minister and appoint a new cabinet.

Throughout its troubled past, Nepal has suffered from the neglect and often violent and corrupt misrule of many monarchs. For that reason, those familiar with its history may not be completely surprised by this unfortunate development.

Yet one would have thought that in the 21st century, this type of thing would, by now, be a distant memory. At a time when a vicious Maoist insurgency is gaining ground in Nepal, it would be hard to conceive of a worse time for the King to repeat his past mistake.

There is no military solution to this conflict. Nepal is a place where, not unlike Afghanistan, a handful of extremists with rifles and explosives can wreak havoc and easily disappear into the rugged countryside. By terrorizing rural villagers and exploiting the Government's neglect of them, the Maoists have steadily extended their reach to large areas of the country.

The Nepalese army, while somewhat more effective than a few years ago when it performed little more than ceremonial duties, has likewise alienated much of the rural population by arbitrarily arresting, disappearing and killing civilians suspected of sympathizing with the Maoists. Today, the army, rather than defending democracy, is defending the King. It is clear that the King and the army concocted this together, despite having assured the UN High Commissioner for Human Rights last week that concerns about violations of human rights would be addressed.

This year, the United States plans to provide some $40 million in economic aid to Nepal. Much of this is channeled by USAID through nongovernmental organizations. But we are also providing support to the Nepalese government, as well as training and equipment to the Army. In fact, several months ago we approved the transfer of $1 million in fiscal year 2004 military equipment that had not initially been appropriated for Nepal.

The Indian government, to its credit, issued a strong statement critical of the King's actions. The State Department has also called for the immediate restoration of multiparty democracy. King Gyanendra is on notice that he will be held responsible for infringement of the rights of free speech and assembly, or abuses of citizens who have defended human rights and democracy.

The State Department should also make clear that unless democratic government and fundamental rights are promptly restored, the United States will cut off aid to the government and the army under Section 508 of the Foreign Operations Act which was designed to deter and punish this type of act. Regardless of whether or not the King may have acted within his authority under Nepal's constitution, and I do not know if he did or not, that is not the issue. The intent of our law to safeguard democracy is clear. The price is losing U.S. aid. Furthermore, if the $1 million in military equipment previously transferred has not yet been delivered, it should be withheld.

Everyone who has followed Nepal's recent history would agree that its 10 year ''experiment'' with democracy has not been easy. Democracy is never easy, and no one should minimize the threat the Maoists pose. But the answer is not to undermine democracy. The answer, as President Bush expressed in his Inaugural Address, is to work, with help from the international community, to strengthen democracy. The United States Congress would welcome that opportunity.

King Gyanendra has made a tragic blunder. He still has time to prevent a momentary crisis from becoming a disaster for his country and perhaps for the monarchy itself.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

In January 2005, a teenage Texas male was repeatedly beaten by a group of teenage boys. The apparent motivation for this attack was the victim's sexual orientation—he was gay. The attackers punched and repeatedly kicked the victim with a steel-toed boot while yelling slurs regarding his sexual orientation.

I believe that the government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

AN ASSAULT RIFLE THAT FITS IN YOUR POCKET

Mr. LEVIN. Mr. President, I call the attention of my colleagues to a warning from several major police organizations that a new high powered and easily concealable handgun, known as the Five-Seven, is easily available to potential criminals and poses a significant threat to our Nation's law enforcement officers. The International Association of Chiefs of Police, the International Brotherhood of Police Officers, and the National Organization of Black Law Enforcement Executives issued the warning late last week.

Belgian firearm manufacturer FN Herstal specializes in military and law enforcement weaponry but has also made its Five-Seven handgun available to private buyers in the United States. The Five-Seven includes a 20-round clip and is capable of firing ammunition that penetrates the body armor commonly worn by law enforcement officials. The FN Herstal Web site boasts that with the Five-Seven handgun, ''Enemy personnel, even wearing body armor can be effectively engaged up to 200 meters. Kevlar helmets and vests as well as the CRISAT protection will be penetrated.''

These new guns clearly have no sporting purpose and no place on our streets. We should not ignore the concerns of our law enforcement officers with regard to these dangerous weapons.

The law enforcement community is most concerned about the Five-Seven's ability to kill police officers, even while wearing protective body armor. Bernard Thompson, director of the National Organization of Black Law Enforcement Executives, commented on the Five-Seven, ''No one is safe from a weapon like this. Police body armor won't offer protection if a criminal has this pistol.''

The legislative director of the International Brotherhood of Police Officers Steve Lenkhart called the Five-Seven ''an assault rifle that fits in your pocket.'' A recent memo by the Florida Department of Law Enforcement supports this assertion. The memo reportedly states that the Five-Seven has the capabilities of a carbine or rifle but weighs less than 2 pounds when fully loaded. The FN Herstal Web site lists the overall length of the handgun as only 8.2 inches, making it small enough and light enough to be easily concealed by criminals.

Common sense should tell us that there is no reason for civilians to have access to easily concealable handguns with the capability to shoot through body armor. It is important for our elected officials to listen to the warnings of those who put their lives on the line to help keep violent criminals off of our streets. Unfortunately, the Congress also continues its failure to pass commonsense gun safety legislation that, among other things, would reauthorize the 1994 assault weapons ban, close the gun show loophole, and regulate high-powered .50 caliber sniper rifles. I again urge my colleagues to work to pass sensible gun-safety legislation that will help protect our law enforcement officers, families, and communities from military style firearms like the Five-Seven handgun.

TRIBUTE TO PRIME MINISTER OF THE REPUBLIC OF GEORGIA

Mr. KYL. Mr. President, I rise today to express my condolences to the family of Mr. Zurab Zhvanai, the Prime Minister of Georgia, who died early today in what appeared to have been a tragic accident. My prayers go out to his wife and his three children that he leaves behind.

Prime Minister Zhvania was one of the leading figures that peacefully brought about democratic change in Georgia following the country's fraudulent November 2003 elections. The prime minister, along with Mikail Saakashvili, the current president of Georgia, spearheaded the ''Rose Revolution'' that toppled the government of Eduard Shevardnadze and ushered in a new era in Georgian history, one that has set Georgia on a pro-Western reform path.

Prime Minister Zhvania was a dynamic young man who became an inspiration to millions of Georgians, became a close personal friend of many in the Bush Administration, in Congress, and in Washington, DC, and was viewed throughout the world as a positive force for democratic reform in Georgia. His energy, courage, and humility will be missed, and his contributions to democracy and liberty will not be forgotten.

The death of Prime Minister Zhvania, while tragic, does not spell the end of democratic reforms in Georgia. In fact, his contributions to Georgian democracy will be long lasting. In the short time Prime Minister Zhvania was in power, he and his team began a process of significant institutional reconstruction and orientation that will one day, in the not-so-distant future, firmly entrench Georgia into the western institutions of the European Union and NATO.

Tomorrow, in Tbilisi, a large international conference will convene to discuss Georgia and the Caucasus region integration with the West. And, in less than two weeks, the Community of Democracies will hold a workshop with representatives from more than 17 countries to discuss and develop action plans for further democratic and institutional reform in Georgia. Neither would have occurred had it not been for the courage and dedication to democracy and freedom exhibited by President Saakashvili and his trusted advisor and ally, Zurab Zhvania, which led the Rose Revolution to victory and brought hope to the Georgian people.

I believe that one of the finest tributes to the Prime Minister's memory will be for all of us, in Georgia and in the West, to redouble our efforts to ensure that Zurab Zhvania's aspirations for democracy in Georgia are fully realized in the critical months ahead. Let me say that America will continue to work with the people of Georgia, President Saakashvili, and other Georgian leaders to ensure that their aspiration to become fully integrated into the world's community of nations is met, as expeditiously and irreversibly as possible.

The United States mourns the loss of such an intelligent and vibrant democratic leader as was found in Prime Minister Zhvania. As President Saakashvili was quoted as saying earlier today, ''I have lost my closest friend, my most loyal adviser, my biggest ally.'' Let me say to President Saakashyili and the Georgian people, America shares your loss and honors the accomplishments and memory of Prime Minister Zurab Zhvania.

PROCEDURE—RULES OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, in accordance with Rule XXVI, paragraph 2, of the Standing Rules of the Senate, I hereby submit for the CONGRESSIONAL RECORD the Rules of the Committee on Energy and Natural Resources.

I ask unanimous consent that they be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

GENERAL RULES

Rule 1. The Standing Rules of the Senate, as supplemented by these rules, are adopted as the rules of the Committee and its Subcommittees.

MEETINGS OF THE COMMITTEE

Rule 2. (a) The Committee shall meet on the third Wednesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

(b) Business meetings of any Subcommittee may be called by the Chairman of such Subcommittee, Provided, That no Subcommittee meeting or hearing other than a field hearing, shall be scheduled or held concurrently with a full Committee meeting or hearing, unless a majority of the Committee concurs in such concurrent meeting or hearing.

OPEN HEARINGS AND MEETINGS

Rule 3. (a) All hearings and business meetings of the Committee and its Subcommittees shall be open to the public unless the

Committee or Subcommittee involved, by majority vote of all the Members of the Committee or such Subcommittee, orders the hearing or meeting to be closed in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate.

(b) A transcript shall be kept of each hearing of the Committee or any Subcommittee.

(c) A transcript shall be kept of each business meeting of the Committee or any Subcommittee unless a majority of all the Members of the Committee or the Subcommittee involved agrees that some other form of permanent record is preferable.

HEARING PROCEDURE

Rule 4. (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the Committee or any Subcommittee at least one week in advance of such hearing unless the Chairman of the full Committee or the Subcommittee involved determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of all the Members of the Committee or the Subcommittee involved concurs. In no case shall a hearing be conducted with less than twenty-four hours notice. Any document or report that is the subject of a hearing shall be provided to every Member of the Committee or Subcommittee involved at least 72 hours before the hearing unless the Chairman and Ranking Member determine otherwise.

(b) Each witness who is to appear before the Committee or any Subcommittee shall file with the Committee or Subcommittee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the Committee or Subcommittee prescribes.

(c) Each member shall be limited to five minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness.

(d) The Chairman and Ranking Minority Member or the ranking Majority and Minority Members present at the hearing may each appoint one Committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman and the ranking Majority and Minority Members present may agree. No staff member may question a witness in the absence of a quorum for the taking of testimony.

BUSINESS MEETING AGENDA

Rule 5. (a) A legislative measure, nomination, or other matter shall be included on the agenda of the next following business meeting of the full Committee or any Subcommittee if a written request for such inclusion has been filed with the Chairman of the Committee or Subcommittee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the Committee or Subcommittee to include a legislative measure, nomination, or other matter on the Committee or Subcommittee agenda in the absence of such request.

(b) The agenda for any business meeting of the Committee or any Subcommittee shall be provided to each Member and made available to the public at least three days prior to such meeting, and no new items may be added after the agenda is so published except by the approval of a majority of all the Members of the Committee or Subcommittee. The Staff Director shall promptly notify absent Members of any action taken by the Committee or any Subcommittee on matters not included on the published agenda.

QUORUMS

Rule 6. (a) Except as provided in subsections (b), (c), and (d), eight Members shall constitute a quorum for the conduct of business of the Committee.

(b) No measure or matter shall be ordered reported from the Committee unless twelve Members of the Committee are actually present at the time such action is taken.

(c) Except as provided in subsection (d), one-third of the Subcommittee Members shall constitute a quorum for the conduct of business of any Subcommittee.

(d) One Member shall constitute a quorum or the purpose of conducting a hearing or taking testimony on any measure or matter before the Committee or any Subcommittee.

VOTING

Rule 7. (a) A rollcall of the Members shall be taken upon the request on any Member. Any Member who does not vote on any rollcall at the time the roll is called, may vote (in person or by proxy) on that rollcall at any later time during the same business meeting.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only upon the date for which it is given and upon the items published in the agenda for that date.

(c) Each Committee report shall set forth the vote on the motion to report the measure or matter involved. Unless the Committee directs otherwise, the report will not set out any votes on amendments offered during Committee consideration. Any Member who did not vote on any rollcall shall have the opportunity to have his position recorded in the appropriate Committee record or Committee report.

(d) The Committee vote to report a measure to the Senate shall also authorize the staff of the Committee to make necessary technical and clerical corrections in the measure.

SUBCOMMITTEES

Rule 8. (a) The number of Members assigned to each Subcommittee and the division between Majority and Minority Members shall be fixed by the Chairman in consultation with the ranking Minority Member.

(b) Assignment of Members to Subcommittees shall, insofar as possible, reflect the preferences of the Members. No Member will receive assignment to a second Subcommittee until, in order of seniority, all Members of the Committee have chosen assignments to one Subcommittee, and no Member shall receive assignment to a third Subcommittee until, in order of seniority, all Members have chosen assignments to two Subcommittees.

(c) Any Member of the Committee may sit with any Subcommittee during its hearings and business meetings but shall not have the authority to vote on any matters before the Subcommittee unless he is a Member of such Subcommittee.

NOMINATIONS

Rule 9. At any hearing to confirm a Presidential nomination, the testimony of the nominee and, at the request of any Member, any other witness shall be under oath. Every nominee shall submit a statement of his financial interests, including those of his spouse, his minor children, and other members of his immediate household, on a form approved by the Committee, which shall be sworn to by the nominee as to its completeness and accuracy. A statement of every nominee's financial interest shall be made available to the public on a form approved by the Committee, unless the Committee in executive session determines that special circumstances require a full or partial exception to this rule.

INVESTIGATIONS

Rule 10. (a) Neither the Committee nor any of its Subcommittees may undertake an investigation unless specifically authorized by a majority of all the Members of the Committee.

(b) A witness called to testify in an investigation shall be informed of the matter or matters under investigation, given a copy of these rules, given the opportunity to make a brief and relevant oral statement before or after questioning, and be permitted to have counsel of his or her choosing present during his or her testimony at any public or closed hearing, or at any unsworn interview, to advice the witness of his or her legal rights.

(c) For purposes of this rule, the term ''investigation'' shall not include a review or study undertaken pursuant to paragraph 8 of Rule XXVI of the Standing Rules of the Senate or an initial review of any allegation of wrongdoing intended to determine whether there is substantial credible evidence that would warrant a preliminary inquiry or an investigation.

SWORN TESTIMONY

Rule 11. Witnesses in Committee or Subcommittee hearings may be required to give testimony under oath whenever the Chairman or Ranking Minority Member of the Committee or Subcommittee deems such to be necessary. If one or more witnesses at a hearing are required to testify under oath, all witnesses at that hearing shall be required to testify under oath.

SUBPOENAS

Rule 12. No subpoena for the attendance of a witness or for the production of any document, memorandum, record, or other material may be issued unless authorized by a majority of all the Members of the Committee, except that a resolution adopted pursuant to Rule 10(a) may authorize the Chairman, with the concurrence of the Ranking Minority Member, to issue subpoenas within the scope of the authorized investigation.

CONFIDENTIAL TESTIMONY

Rule 13. No confidential testimony taken by or any report of the proceedings of a closed Committee or any Subcommittee, or any report of the proceedings of a closed Committee or Subcommittee hearing or business meeting, shall be made public, in whole or in part or by way of summary, unless authorized by a majority of all the Members of the Committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 14. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open Committee or Subcommittee hearing tends to defame him or otherwise adversely affect his reputation may file with the Committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 15. Any meeting or hearing by the Committee or any Subcommittee which is open to the public may be covered in whole or in part by television broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the seating, vision, and hearing of Members and staff on the dais or with the orderly process of the meeting or hearing.

AMENDING THE RULES

Rule 16. These rules may be amended only by vote of a majority of all the Members of

the Committee in a business meeting of the Committee: Provided, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the Committee agenda for such meeting at least three days in advance of such meeting.

RULES OF PROCEDURE—COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Ms. SNOWE. Mr. President, on January 26, 2005, the Senate Committee on Small Business and Entrepreneurship unanimously adopted its rules for the 109th Congress. Pursuant to rule XXVI of the Standing Rules of the Senate, I submit those rules to be printed in the RECORD.

Consistent with Standing Rule XXVI, I ask unanimous consent to have a copy of the Senate Committee on Small Business and Entrepreneurship's rules printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES, THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, 109TH CONGRESS; ADOPTED ON JANUARY 26, 2005

1. GENERAL

All applicable provisions of the Standing Rules of the Senate, the Senate Resolutions, and the Legislative Reorganization Acts of 1946 and of 1970 (as amended) shall govern the Committee.

2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he or she deems necessary, on 5 business days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, such member of the Committee as the Chairman shall designate shall preside.

(b)(1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term ''routine business'' includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Congressional Record Sec. 3231 (daily edition March 21, 1986).

(3) In hearings, whether in public or closed session a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote on the date of the meeting to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

(d) It shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the Clerk of the Committee at least 2 business days prior to the meeting. This subsection may be waived by the agreement of the Chairman and Ranking Member or by a majority vote of the members of the Committee.

3. NOMINATIONS

In considering a nomination, the Committee shall conduct an investigation or review of the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. In any hearings on the nomination, the nominee shall be called to testify under oath on all matters relating to his or her nomination for office. To aid in such investigation or review, each nominee may be required to submit a sworn detailed statement including biographical, financial, policy, and other information which the Committee may request. The Committee may specify which items in such statement are to be received on a confidential basis.

4. HEARINGS, DEPOSITIONS, SUBPOENAS, AND LEGAL COUNSEL

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his or her authority or upon his or her approval of a request by any Member of the Committee. If such request is by the Ranking Member, a decision shall be communicated to the Ranking Member within 7 business days. Written notice of all hearings, including the title, a description of the hearing, and a tentative witness list shall be given at least 5 business days in advance, where practicable, to all Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting, but must be in writing.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) The Chairman and Ranking Member shall be empowered to call an equal number of witnesses to a Committee hearing. Such number shall exclude an Administration witness unless such witness would be sole hearing witness, in which case the Ranking Member shall be entitled to invite one witness. The preceding two sentences shall not apply when a witness appears as the nominee. Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 2 business days in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Any Committee Member or staff may take depositions upon written authorization by the Chairman. The Ranking Member shall be notified of the deposition five business days in advance or as soon as practicable. Attendance at depositions may be secured through notices for the taking of depositions authorized and be issued by the Chairman or through subpoenas. Notices shall specify a time and place for examination, and the name of the Committee Member or staff who will take the deposition. Unless otherwise specified, the deposition shall be in private. Witnesses shall be examined upon oath administered by a Committee Member or an individual authorized to administer oaths by local law. The transcript of a deposition shall be filed with the Committee and made available for review to Committee Members and staff.

(d) Any witness summoned to a public or closed hearing or a deposition may be accompanied by counsel of his own choosing, who shall be permitted while witness is testifying to advise him of his legal rights. Failure to obtain counsel will not excuse the witness from appearing and testifying.

(e) Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, and other materials may be issued by the Chairman with the consent of the Ranking Minority Member or by the consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting, but must be in writing. The Chairman may subpoena attendance or production without the consent of the Ranking Minority Member when the Chairman has not received notification from the Ranking Minority Member of disapproval of the subpoena within 72 hours of being notified of the intended subpoena, excluding Saturdays, Sundays, and holidays. Subpoenas shall be issued by the Chairman or by the Member of the Committee designated by him or her. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing or the deposition and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents, records, and other materials shall identify the papers or materials required to be produced with as much particularity as is practicable.

(f) The Chairman shall rule on any objections or assertions of privilege as to testimony or evidence in response to subpoenas or questions of Committee Members and staff in hearings and depositions.

5. CONFIDENTIAL INFORMATION

(a) No confidential testimony taken by, or confidential material presented to, the Committee in executive session, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members. Other confidential material or testimony submitted to the Committee may be disclosed if authorized by the Chairman with the consent of the Ranking Member.

(b) Persons asserting confidentiality of documents or materials submitted to the Committee offices shall clearly designate them as such on their face. Designation of submissions as confidential does not prevent their use in furtherance of Committee business.

6. MEDIA AND BROADCASTING.

(a) At the discretion of the Chairman, public meetings of the Committee may be televised, broadcasted, or recorded in whole or in part by a member of the Senate Press Gallery or an employee of the Senate. Any such person wishing to televise, broadcast, or record a Committee meeting must request approval of the Chairman by submitting a

written request to the Committee Office by 5:00 p.m. the day before the meeting. Notice of televised or broadcasted hearings shall be provided to the Ranking Minority Member as soon as practicable.

(b) During public meetings of the Committee, any person using a camera, microphone, or other electronic equipment may not position or use the equipment in a way that interferes with the seating, vision, or hearing of Committee members or staff on the dais, or with the orderly process of the meeting.

7. SUBCOMMITTEES

The Committee shall not have standing subcommittees.

8. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended; provided, however, that not less than a majority of the entire Membership so determined at a regular meeting with due notice, or at a meeting specifically called for that purpose.

SMALL BUSINESS AND FARM ENERGY EMERGENCY RELIEF ACT

Ms. CANTWELL. Mr. President, as small businesses in the State of Washington continue to struggle with the extraordinarily high costs of electricity following the Western Energy Crisis of 2000–2001 and significant increases in the costs of other petroleum fuels, I wanted to make a statement in support of the Small Business and Farm Energy Emergency Relief Act of 2005, S. 269, introduced yesterday by the Senator from Massachusetts, Mr. KERRY. This legislation establishes a critically important safety net for small businesses and family farms that suffer direct economic injury due to exorbitant and immediate increases in energy costs, and I am pleased to be an original cosponsor.

During the 107th Congress, I was proud to cosponsor the Small Business and Farm Energy Emergency Relief Act of 2001, which contained many of the same provisions that are included in this legislation.

The Small Business and Farm Energy Emergency Relief Act of 2005 would provide small businesses and farms economic relief in the form of low-interest emergency loans to help mitigate the effects of significant spikes in the prices of heating oil, propane, natural gas, and kerosene. To be eligible, an applicant must be a small-business owner or agriculture producer, must have used all reasonably available funds it may have, and must be unable to obtain credit elsewhere. The U.S. Small Business Administration would provide loans to small-businesses and farms would apply for loans through the U.S. Department of Agriculture.

As my colleagues know, small businesses and farms typically operate on narrow margins. They depend on affordable and stable cost inputs—such as fuel—to maintain their productivity. However, the recent volatility of energy prices has levied a considerable strain on the operating budgets of many American small businesses and family farms and ultimately threatened their sustainability. Without this emergency assistance, the viability of some Washington State small businesses and farms would be compromised during times when energy prices spike. This emergency relief program is vital to protecting small businesses from the considerable economic impact of surging energy costs and we must do all that is possible to help them overcome these challenges.

Mr. President, the Small Business and Farm Energy Emergency Relief Act provides critical assistance for our small businesses and farms through trying economic conditions. Therefore, I urge my colleagues to give it their full support.

527 REFORM ACT OF 2005

Mr. FEINGOLD: Mr. President, I am pleased once again to be working with my partner in reform, the Senator from Arizona, Mr. MCCAIN, on the 527 Reform Act. And it is an honor to again have Senator LIEBERMAN and Senator SCHUMER as original cosponsors of our bill. This year, there is a very significant new addition to our effort, the Chairman of the Rules Committee, Senator LOTT. Senators SNOWE and COLLINS from the great State of Maine, who were both exceptional partners in the fight for campaign finance reform a few years ago, are original cosponsors as well. It is also gratifying to have a new Member of the Senate, the junior Senator from Colorado, Mr. SALAZAR, on board. This is a very strong bipartisan group and I look forward to working with all of them.

Our purpose is simple—to pass legislation that will do what the FEC could and should do under current law, but, once again, has failed to do. It sometimes seems like our mission in life is to clean up the mess that the FEC has mad. We had to that with BCRA, the Bipartisan Campaign Reform Act, which passed in 2002, closing the soft money loophole that the FEC created in the late '70s and expanded in the '90s. We are doing it again with the regulations that the FEC put in place after BCRA passed.

I am pleased to announce the introduction of legislation that will make absolutely clear that the Federal election laws apply to 527 organizations. Let me emphasize one thing—current Federal election law requires these groups to register as political committees and stop raising and spending soft money. But the FEC has failed to enforce the law, so we must act in the Congress.

This bill will require all 527s to register as political committees unless they fall into a number of narrow exceptions. The exceptions are basically for groups that Congress exempted from disclosure requirements because they are so small or for groups that are involved exclusively in state election activity.

Once a group registers as a political committee, certain activities such as ads that mention only Federal candidates will have to be paid for solely with hard money. But the FEC permits Federal political committees to maintain a non-federal account to pay a portion of the expenses of activities that affect both Federal and non-federal elections. Our bill sets new allocation rules that will make sure that these allocable activities are paid for with at least 50 percent hard money.

Finally, the bill makes an important change with respect to the non-federal portion of the allocable activities. We put a limit of $25,000 per year on the contributions that can be accepted for that non-federal account. So no more million dollar soft money contributions to pay for get-out-the-vote efforts in the presidential campaign.

Nothing in this bill will affect legitimate 501(c) advocacy groups. The bill only applies to groups that claim a tax exemption under section 527.

In closing, I want to make one final point. The soft money loophole was opened by FEC rulings in the late '70s. By the time we started work on BCRA, the problem had mushroomed and led to the scandals we saw in the 1996 campaign. When we passed BCRA, I said we would have to be vigilant to make sure that the FEC enforced the law and that similar loopholes did not develop. That is what we have been doing for the past three years, and what are again doing today.

I have no doubt that if we don't act on this 527 problem now, we will see the problem explode into scandals over the next few election cycles. In the 2004 cycle, Federal-oriented 527s spend $423 million. Ten donors gave at least $ million each to 527s involved in the 2004 Federal elections and two donors each contributed over $20 million. This time we cannot afford to wait for a problem to grow into a disaster that undermines the scheme of the Federal election laws.

Mr. President, I ask unanimous consent that a summary of the bill's provisions be printed in the RECORD.

THE 527 REFORM ACT

Under the Internal Revenue Code, a 527 group is defined as an organization ''organized and operated primarily'' to influence elections (or the appointment of individuals to non-elective office). The Federal Election Commission (''FEC''), however, has failed to apply existing Federal campaign finance laws to require that 527 groups spending money to influence federal elections register as federal political committees and comply with federal campaign finance laws, including the limits on the contribution they may receive.

As a result, both Democratic-leaning and Republican-leaning 527 groups spent tens of millions of dollars in soft money to influence the 2004 federal elections. A number of 527 groups did not register as federal political committees and spent soft money on ads attacking and promoting federal candidates. Other 527 groups did register as federal political committees but claimed that under FEC rules they could spend as much as 98 percent soft money on partisan voter drive activities for the purpose of influencing the 2004 federal elections.

The 527 Reform Act is designed to clarify and reaffirm that such 527 groups are required to comply with federal campaign finance laws. The bill would:

Require 527s groups to register as political committees with the FEC and comply with federal campaign finance laws, unless they raise and spend money exclusively in connection with non-federal candidate elections, or state or local ballot initiatives, or the nomination or confirmation of individuals to non-elected offices, such as judicial positions.

Under this requirement, 527 groups registered as political committees and subject to federal campaign finance laws can use only federal hard money contributions to finance ads that promote or attack federal candidates, regardless of whether the ads expressly advocate the election or defeat of the candidate.

Any 527 group with annual receipts of less than $25,000 is exempt from the requirement to register as a political committee and comply with federal campaign finance laws.

Establish that when a 527 group registered as a federal political committee makes expenditures for voter mobilization activities or public communications that affect both federal and non-federal elections, at least 50 percent of the costs of such activities would have to be paid for with federal hard money contributions.

Provide that with regard to the non-federal funds that can be used to finance a portion of voter mobilization activities and public communications that affect both federal and non-federal elections, such funds must come from individuals only and must be in amounts of not more than $25,000 per year per individual donor.

This is similar to the provision in the Bipartisan Campaign Reform Act of 2002 that places a limit on the size of a nonfederal contribution that can be spent by state parties on activities affecting both federal and non-federal elections. $25,000 is the same amount that an individual can contribute to a national political party. An individual can give only $5,000 per year to a federal political committee to influence federal elections.

The 527 Reform Act provides that it applies only to 527 groups and that nothing in the Act will have any effect on determining whether 501(c) groups are subject to federal campaign finance laws.

PRESERVING CALIFORNIA'S MISSION HERITAGE

Mrs. BOXER. Mr. President, last week I had the pleasure of joining members of the California Missions Foundation at Mission San Diego to celebrate the passage of the California Missions Preservation Act, which became law in 2004.

In opening the celebration, Missions Foundation Executive Director Knox Mellon expressed his gratitude to the Senate and House for passing the Missions Preservation Act, which will help my State preserve a priceless element of our historical and cultural heritage.

By way of expressing my own gratitude to you and our colleagues, I want to share some of Mr. Mellon's remarks with you:

There is a tendency for me to believe the primary beneficiary of the legislation Senator Boxer both carried and succeeded in getting signed by the President would be the California Missions Foundation because it acts as a conduit, a pass-through for directing monies to each of the twenty-one historic missions. But the real beneficiaries are the people not only of California but the nation. The missions are California's Pyramids. They are a part of our past. They help symbolize the nation's western beginnings.

Of all the institutions that define California's heritage, none has the historic significance and emotional impact of the chain of Spanish missions that stretch from San Diego to Sonoma. The missions are an important part of the state's cultural fabric and must be preserved as priceless historic monuments.

I thank our colleagues in Congress, particularly Senator DIANNE FEINSTEIN and Representatives SAM FARR and DAVID DREIER, who worked diligently to see this bill signed into law. I also thank Governor Arnold Schwarzenegger for his support.

And finally, I thank Knox Mellon and the California Missions Foundation Board for their strong dedication to this cause. Through the collaboration of Federal, State, and private efforts, our missions have hope for the future.

KAREN SHAPIRA

Mr. SANTORUM. Mr. President, today I would like to reflect on the loss of a dear family friend, Karen Shapira. Karen recently passed away after a battle with breast cancer. The Shapira family has suffered a tremendous loss, and I offer them my condolences and deepest sympathy during this difficult time.

Karen always called herself a ''professional volunteer'' and that is what she was. She was an extremely caring and selfless individual. For more than 20 years, she served the Jewish community, both in Pittsburgh and abroad. Most notably, she chaired the United Jewish Federation of Pittsburgh, which is responsible for delivering grants for educational, cultural, and human service programs.

Her deep involvement in the Jewish community led her to Israel, where she met with Prime Ministers Ehud Barak and Ariel Sharon. Through her capacity as chair of Partnership 2000 at the United Jewish Federation, Karen worked on projects with several schools, camps, women's health centers, and job training facilities in Israel. She also chaired a revolving loan fund of the Israel Emergency Appeal, which supports Israeli small businesses.

Karen could also be found serving her local community in Pittsburgh. She had a major leadership role at the United Way of Allegheny County, cochairing the Early Childhood Initiative, and she served on the boards of the Pittsburgh Symphony, the Jewish Healthcare Foundation in Pittsburgh, the University of Pittsburgh Medical Center, and Shady Side Academy. Karen was also appointed by Governor Ridge to the Pennsylvania Commission for Women.

It is obvious from the several awards that Karen received that her dedication to the Jewish community did not go unnoticed. Specifically, Karen received the 2002 Emanuel Specter Award and the Sonia and Aaron Levinson Award for the pursuit of social justice, both from the United Jewish Federation.

Karen was also devoted to her family. She was married to David Shapira for 41 years and raised three children, Laura Karet, Debbie, and Jeremy. Karen leaves behind a wonderful family, and a legacy of community service and outreach. My thoughts and prayers are with the Shapira family in the days and months ahead.

ADDITIONAL STATEMENTS

IN CELEBRATION OF SHERIFF MARK TRACY

• Mrs. BOXER. Mr. President, I take this opportunity to recognize Santa Cruz County Sheriff Mark Tracy, who retired after 32 years of dedicated service.

Sheriff Tracy is a Santa Cruz County native who was educated in the county's public schools. In 1972, he received his bachelor of science degree in criminology from California State University at Fresno. Upon receiving his degree, Sheriff Tracy immediately returned to his home in Santa Cruz County, where he began his law enforcement career with the Santa Cruz County Sheriff's Office.

Sheriff Tracy has held many positions within the Santa Cruz County Sheriff's Office. As a deputy, he worked in the Patrol Division, the Coroner's Unit, and the Detention Bureau. He quickly rose through the ranks, and was soon promoted to sergeant, and then to lieutenant. In those positions, Sheriff Tracy managed the Street Narcotics and Gang units, served as the watch commander of the county jail, and supervised deputies in the Patrol Division, among other duties. Because of his expertise, Sheriff Tracy also served as the coordinator of the Search and Rescue Team, was a founding member of the Hostage Negotiating Team, and was instrumental in the planning and construction of the Roundtree Medium Security Detention Facility. In 1994, Sheriff Tracy was overwhelmingly elected by the residents of Santa Cruz County to serve as the sheriff-coroner. In 2002, he was successfully reelected, and served in the capacity of sheriff-coroner until his retirement in December 2004.

Among his many accomplishments, Sheriff Tracy has also served as chair of the Santa Cruz County Criminal Justice Council and the Santa Cruz County Commission on Domestic Violence. He has been an active member of the California State Sheriffs' Association and the California State Coroners' Association. Sheriff Tracy has worked tirelessly with local elected officials, schools, and community organizations to foster a strong sense of community in Santa Cruz County. I have collaborated with Sheriff Tracy in the past,

and I can attest to his commitment to the community he served.

Sheriff Tracy's service to the State of California and dedication to public safety is inspiring. I am confident that, even in retirement, Sheriff Tracy will continue to touch lives with his good will and compassion.●

LOYOLA SACRED HEART SPEECH AND DEBATE TEAM

● Mr. BURNS. Mr. President, I rise today to recognize the achievements of a remarkable group of young people from my beautiful state of Montana. On January 29, 2005 the Loyola Sacred Heart High School speech and debate team won its 22nd state championship in a row for Class B competition. This victory extends the longest series of state championships ever in Montana.

Early on a crisp Saturday morning, while other kids their age were sleeping, students from 72 high schools from every corner of Montana met in Corvallis to compete in the A–B–C State Tournament. They competed in 7 speech events—Memorized Public Address, Original Oratory, Expository Speaking, Impromptu Speaking, Extemporaneous Speaking, Serious Oral Interpretation of Literature, and Humorous Oral Interpretation of Literature—and 2 debate events—Policy Debate and Lincoln-Douglas Debate.

This year, Loyola earned its 22nd consecutive state title by a margin of 80 points. Two students, Sarah Stergios and Rebecca Natelson were individual State champions, and they were well supported by 13 other individual medalists. Such success is not a new thing for Head Coach Matt Stergios, who has been with the team since 1981, when the team had only four members.

Since that time, over one thousand students have competed for the team; in fact, in 2004, one out of four students at Loyola competed at one or more tournaments. The team has generated 31 individual state champions, and over 200 medalists. Since the streak began, Loyola has won over 200 individual tournament titles. The building that the students attend classes in is not large enough to hold all of the trophies, so some of them have to be stored next door.

But Loyola Sacred Heart High School is not just known for its speech and debate team. While I was in the Marines I learned that it's important to hone the mind as well as the body. Well, every year, students from Loyola rank at the top of the state in test scores. Ninety percent of students who graduate from Loyola go to college. On Advanced Placement exams Loyola students score 25 percent higher than the national average. Loyola boasts 13 Hearst Foundation Senate Youth Awards, and a Senate Page. And Loyola is as successful with feats of the body as it is with feats of the mind. The boys cross country team has won six straight State titles, and the girls cross country team has won state titles in the last 2 years. The Loyola Fighting Ram football team made state quarterfinals this year, and both the girls basketball and volleyball teams won their Division. The girls track team was second in the State last year after both the boys and girls teams swept District and Divisional competition. Two years ago, the girls softball team won the state title and placed fourth this year. Now all of this is already quite impressive. But it's even more amazing considering that Loyola Sacred Heart High School has only about 200 students.

I congratulate Loyola Sacred Heart High School for their 22nd consecutive State title in speech and debate.

Loyola Sacred Heart Speech and Debate 38-person Divisional and State Team Roster: Frankie Barnhill, Loren Barstad, Adam Benson, Adam Bigelow, Brian Bobowiec, Nick Corn, Karra Cuplin, Paul Dalapiazza, Miles Dauterive, Jason Devoe, Liz Diehl, Ryne Dougherty, Brian Doyle, Sambath Eat, Ben Eddy, Matt Eddy, John Eikens, Dan Evans, Brian Geer, Tyler Grutsch, Megan Hess-Homier, Julie Hurd, Ben Kappelman, Tricia Karsky, Katie Lawhorn, Matt Lovejoy, Abby Mayer, Keith Miller, Cory Monroe, Rebecca Natelson, Dan O'Brien, Joe Sanders, Nadia Selim, Paul Stergios, Sarah Stergios, Will Taylor, Lauren Titchbourne, Caroline Wade

Head Coach: Matthew Stergios

Assistant Coaches: Frank Grady, Sarah Jennings, Dave Klein, Theresa Stergios.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–502. A communication from the Director, Office of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Environment, Safety, and Health, received on January 24, 2005; to the Committee on Energy and Natural Resources.

EC–503. A communication from the Director, Office of Human Resources Management, Department of Energy, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Policy and International Affairs, received on January 24, 2005; to the Committee on Energy and Natural Resources.

EC–504. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Annual Energy Outlook for 2005; to the Committee on Energy and Natural Resources.

EC–505. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on Federal government energy management and conservation programs for Fiscal Year 2002; to the Committee on Energy and Natural Resources.

EC–506. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on fleet alternative fueled vehicle acquisition report for Fiscal Year 2003; to the Committee on Energy and Natural Resources.

EC–507. A communication from the Director, Office of Management, Budget and Evaluation, Department of Energy, transmitting, pursuant to law, the annual list of Government activities not inherently governmental in nature; to the Committee on Energy and Natural Resources.

EC–508. A communication from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, the report on Fiscal Year 2004 competitive sourcing; to the Committee on Energy and Natural Resources.

EC–509. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Emergency Rule: Endangered and Threatened Wildlife and Plants: Establishment of an additional Manatee Protection Area in Lee County, Florida'' (RIN1018–AT65) received on December 17, 2004; to the Committee on Energy and Natural Resources.

EC–510. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Kentucky Regulatory Program'' received on December 17, 2004; to the Committee on Energy and Natural Resources.

EC–511. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered Species Act Incidental Take Permit Revocation Regulations'' (RIN1018–AT64) received on December 31, 2004; to the Committee on Energy and Natural Resources.

EC–512. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Colorado Butterfly Plant; Final Rule'' (RIN1018–AJ07) received on January 13, 2004; to the Committee on Energy and Natural Resources.

EC–513. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Mariana Fruit Bat (Pteropus mariannus mariannus) Reclassification from Endangered to Threatened in the Territory of Guam and Listing as Threatened in the Commonwealth of the Northern Mariana Islands'' (RIN1018–AH55) received on January 3, 2005; to the Committee on Energy and Natural Resources.

EC–514. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 02–03; to the Committee on Appropriations.

EC–515. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 01–01; to the Committee on Appropriations.

EC–516. A communication from the Director, Trade and Development Agency, transmitting, pursuant to law, the report on competitive sourcing efforts during Fiscal Year 2004; to the Committee on Appropriations.

EC–517. A communication from the Acting Secretary for Health, Department of Veterans Affairs, transmitting, the report of recent and ongoing research for the period 2002–2003; to the Committee on Veterans' Affairs.

EC–518. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the report on competitive sourcing efforts for Fiscal Year 2004; to the Committee on Veterans' Affairs.

EC–519. A communication from the Chief of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Increase in Rates Payable Under the Montgomery G.I. Bill—Active Duty'' (RIN2900–AM08) received on January 5, 2005; to the Committee on Veterans' Affairs.

EC–520. A communication from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Centralized Offset of Federal Payments to Collect Nontax Debts Owed to the United States'' (RIN1510–AA65) received on January 15, 2005; to the Committee on Finance.

EC–521. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Transactions Involving the Use of a Loan Assumption Agreement to Claim and Inflated Basis in Assets Acquired from Another Party'' (UIL9300.19–00) received on February 1, 2005; to the Committee on Finance.

EC–522. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Elimination of Forms of Distribution in Defined Contribution Plans'' (RIN1545–BC35) received on February 1, 2005; to the Committee on Finance.

EC–523. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Check-the-Box Disclosure Authority'' (Ann. 2005–6) received on February 1, 2005; to the Committee on Finance.

EC–524. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Like-kind Exchange of a Principal Residence'' (Rev. Proc. 2005–14) received on February 1, 2005; to the Committee on Finance.

EC–525. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Income Attributable to Domestic Production Activities'' (Notice 2005–14) received on February 1, 2005; to the Committee on Finance.

EC–526. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Securities Exchanges under Section 367(a)'' (Notice 2005–6) received on February 1, 2005; to the Committee on Finance.

EC–527. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2005–9) received on February 1, 2005; to the Committee on Finance.

EC–528. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Substantial Understatement of Income Tax Liability'' (RIN1545–BD75) received on February 1, 2005; to the Committee on Finance.

EC–529. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Issues: National Principal Contracts'' (UILN9300.20–00) received on February 1, 2005; to the Committee on Finance.

EC–530. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Interest Suspension Applicability to Amend Returns'' (Rev. Rul. 2005–4) received on February 1, 2005; to the Committee on Finance.

EC–531. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Additional Relief for Like-Kind Exchanges for Which Deadlines May Be Postponed Under 7508 and 7508A of the Internal Revenue Code'' (Notice 2005–3) received on February 1, 2005; to the Committee on Finance.

EC–532. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Returns Required on Magnetic Media'' (RIN1545–BE19) received on February 1, 2005; to the Committee on Finance.

EC–533. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Domestic Reinvestment Plans and Other Guidance Under Section 965'' (Notice 2005–10) received on February 1, 2005; to the Committee on Finance.

EC–534. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''January-March 2005 Bond Factor Amounts'' (Rev. Rul. 2005–4) received on February 1, 2005; to the Committee on Finance.

EC–535. A communication from the Attorney General, transmitting, pursuant to law, the annual report on the health care fraud and abuse control program for Fiscal Year 2003; to the Committee on Finance.

EC–536. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the effects of allowing high deductible insurance plans combined with tax favored Medical Savings Accounts under Medicare; to the Committee on Finance.

EC–537. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–602, ''Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–538. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 16–603, ''Debarment Procedures Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–539. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the semi-annual report on the continued compliance of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan with the Act's freedom of emigration provisions, as required under the Jackson-Vanik Amendment; to the Committee on Finance.

EC–540. A communication from the Chairman, Medicare Payment Advisory Committee, transmitting, pursuant to law, the report on the feasibility and advisability of allowing Medicare fee-for-service beneficiaries to have ''direct access'' to outpatient physical therapy services and comprehensive rehabilitation facility services; to the Committee on Finance.

EC–541. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the report on benefit design and cost sharing in Medicare Advantage Plans; to the Committee on Finance.

EC–542. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the report on practice expense relative values for physicians in the specialties of thoracic and cardiac surgery to determine whether such values adequately take into account the attendant costs that such physicians incur in providing clinical staff for patient care in hospitals; to the Committee on Finance.

EC–543. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, the report on the feasibility and advisability of paying certified registered nurse first assistants separately under Medicare for first assistant at surgery services; to the Committee on Finance.

EC–544. A communication from the Federal Register Certifying Officer, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Centralized Offset of Federal Payments to Collect Nontax Debts Owed to the United States'' (RIN1510–AA65); to the Committee on Finance.

EC–545. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–610, ''District of Columbia Government Purchase Card Program Reporting Requirements Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–546. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–611, ''Closing of Public Alleys in Square 2674 S. O. 01–2426, Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–547. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–632, ''Business Improvement Districts and Anacostia Waterfront Corporation Clarification Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–548. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–631, ''Freedom of Information Legislative Records Clarification Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–549. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–636, ''District of Columbia Housing Authority Revitalization Projects Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–550. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–635, ''Producer Summary Suspension Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–551. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–634, ''Felony Sexual Assault Statute of Limitations Act of 2004''; to

the Committee on Homeland Security and Governmental Affairs.

EC–552. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–638, ''Captive Insurance Company Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–553. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–637, ''Omnibus Juvenile Justice Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–554. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–633, ''Ceremonial Funds Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–555. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–608, ''Extension of Time to Dispose of Property for Golden Rule Development Project Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–556. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–607, ''Rehabilitation Services Program Establishment Temporary Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–557. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–606, ''District of Columbia Housing Authority Police Department Temporary Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–558. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–605, ''Towing Regulation and Enforcement Authority Temporary Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–559. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–604, ''Parking Meter Fee Moratorium Temporary Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–560. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–612, ''Approval of Starpower Communications, LLC's Open Video System Franchise Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–561. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–600, ''Closing of a Portion of the Intersection of Minnesota Avenue and East Capitol Street, N.E., S .O. 02–3743, Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–562. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–599, ''Documents Administrative Cost Assessment Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–563. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–601, ''Unemployment Compensation Additional Funds Appropriation Authorization Temporary Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–564. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–597, ''District of Columbia Emancipation Day Parade and Fund Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–565. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–598, ''Television Production Studios and Equipment Use Amendment Act of 2004''; to the Committee on Homeland Security and Governmental Affairs.

EC–566. A communication from the Colonel, Corps of Engineers, Secretary, Mississippi River Commission, Department of the Army, transmitting, pursuant to law, the Commission's report under the Government in the Sunshine Act for the calendar year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–567. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Performance and Accountability Report for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–568. A communication from the Deputy Chief Acquisition Officer, General Service Administration, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001–26'' (FAC2001–26) received on February 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–569. A communication from the Assistant Secretary for Defense, transmitting, pursuant to law, information on the report on support for child care services and youth program services; to the Committee on Armed Services.

EC–570. A communication from the Principal Deputy for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of the closure of the commissary located at Camp Howze, Korea; to the Committee on Armed Services.

EC–571. A communication from the Acting Assistant Secretary of the Navy for Installations and Environment, Department of Defense, transmitting, pursuant to law, notification to study the military space operations function performed by the military and civilian personnel in the Department of the Navy, for possible performance by private contractors; to the Committee on Armed Services.

EC–572. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, the annual report on entitlement transfers to basic educational assistance to eligible dependents under the Montgomery GI Bill; to the Committee on Armed Services.

EC–573. A communication from the Deputy Commandant for Installations and Logistics, Marine Corps, Department of the Navy, transmitting, pursuant to law, notification of the decision to convert the Real Property Management and Grounds Maintenance functions at Marine Corps Base, Camp Lejeune, North Carolina, to contractor performance; to the Committee on Armed Services.

EC–574. A communication from the Deputy Secretary of Defense, transmitting, pursuant to section 127a of title 10, designating participation in and support of Operation Unified Assistance (Tsunami Disaster Relief) as an operation expected to exceed $50,000,000; to the Committee on Armed Services.

EC–575. A communication from the Acting Under Secretary of Defense for Aquisition, Technology and Logistics, transmitting, pursuant to law, a report on the Department of Defense purchases from foreign entities; to the Committee on Armed Services.

EC–576. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, revisions to the National Defense Stockpile Annual Materials Plan for Fiscal Year 2005; to the Committee on Armed Services.

EC–577. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval to wear the insignia of the grade of rear admiral; to the Committee on Armed Services.

EC–578. A communication from Acting Assistant Secretary of the Army for Civil Works, a report on the ecosystem restoration feasibility of Upper Newport Bay, California; to the Committee on Armed Services.

EC–579. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Protection of Privacy and Freedom of Information'' (DFARS 2003–D038) received on November 15, 2004; to the Committee on Armed Services.

EC–580. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contractor Use of Government Supply Sources'' (DFARS 2003–D045) received on November 15, 2004; to the Committee on Armed Services.

EC–581. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Removal of Obsolete Research and Development Contracting Procedures'' (DFARS 2003–D058) received on November 15, 2004; to the Committee on Armed Services.

EC–582. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contracting for Architect-Engineer Services'' (DFARS 2003–D105) received on November 15, 2004; to the Committee on Armed Services.

EC–583. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Small Disadvantaged Businesses and Leader Company Contracting'' (DFARS 2003–D092) received on November 15, 2004; to the Committee on Armed Services.

EC–584. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Improper Business Practices and Contractor Qualifications Relating to Disbarment, Suspension, and Business Ethics'' (DFARS 2003–D012) received on November 15, 2004; to the Committee on Armed Services.

EC–585. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Period for Task and Delivery Order Contracts'' (DFARS 2003–D097) received on November 15, 2004; to the Committee on Armed Services.

EC–586. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Department of Defense Pilot Mentor-Protege Program'' (DFARS 2003–D013) received on November 15, 2004; to the Committee on Armed Services.

EC–587. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Free trade Agreements—Chile and Singapore'' (DFARS 2003–D088) received on November 15, 2004; to the Committee on Armed Services.

EC–588. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Firefighting Services Contracts'' (DFARS 2003–D107) received on November 15, 2004; to the Committee on Armed Services.

EC–589. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Construction and Architect-Engineer Services'' (DFARS 2003–D035) received on November 15, 2004; to the Committee on Armed Services.

EC–590. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Competition Requirements'' (DFARS 2003–D017) received on November 15, 2004; to the Committee on Armed Services.

EC–591. A communication from the General Counsel, Selective Service System, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Director of the Selective Service System; to the Committee on Armed Services.

EC–592. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination withdrawn for the position of Assistant Secretary of Defense for Public Affairs, received on February 1, 2005; to the Committee on Armed Services.

EC–593. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the closure of the defense commissary store at Camp Page, South Korea by the end of March 2005; to the Committee on Armed Services.

EC–594. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a report of the approval to wear the insignia of the grade of brigadier general; to the Committee on Armed Services.

EC–595. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report concerning internal management control and financial management control systems; to the Committee on Rules and Administration.

EC–596. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Contributions and Donations by Minors'' received on February 1, 2005; to the Committee on Rules and Administration.

EC–597. A communication from the Coordinator, Forms Committee, Federal Election Commission, transmitting, pursuant to law, the Report of Receipts and Disbursement for Other than an Authorized Committee; to the Committee on Rules and Administration.

EC–598. A communication from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Written Assurance of Technical Data Conformity'' (DFARS 2003–D104) received on November 15, 2004; to the Committee on Armed Services.

EC–599. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service of acting role for the position of Assistant Secretary of the Army for Installations and Environment; to the Committee on Armed Services.

EC–600. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant to the Secretary of the Navy, Financial Management and Comptroller; to the Committee on Armed Services.

EC–601. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination confirmed for the position of Secretary of the Army; to the Committee on Armed Services.

EC–602. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a designation of acting officer for the position of General Counsel of the Department of the Army; to the Committee on Armed Services.

EC–603. A communication from the Assistant Director for Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy for the position of Under Secretary of the Army; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. Res. 36. An original resolution authorizing expenditures by the Committee on the Judiciary.

S. 5. A bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 272. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

By Mr. COLEMAN (for himself, Mr. KOHL, Mr. LEAHY, Mr. SPECTER, Mr. GRAHAM, Ms. LANDRIEU, Mr. WYDEN, Mr. THUNE, Mr. VITTER, Mr. JOHNSON, Mr. DEWINE, Mr. BIDEN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LAUTENBERG, Mrs. CLINTON, Mr. DAYTON, Mr. JEFFORDS, Mr. DODD, Ms. MIKULSKI, Mr. KENNEDY, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. DORGAN, Mr. BOND, and Mr. HARKIN):

S. 273. A bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DEMINT:

S. 274. A bill to amend title XI of the Social Security Act to include additional information in Social Security account statements; to the Committee on Finance.

By Ms. CANTWELL:

S. 275. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 276. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself, Mr. DEWINE, and Mr. HARKIN):

S. 277. A bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

By Ms. COLLINS:

S. 278. A bill to revise certain requirements for H-2B employers and require submission of information regarding H-2B non-immigrants, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 279. A bill to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; to the Committee on Indian Affairs.

By Mrs. HUTCHISON:

S. 280. A bill to amend the Internal Revenue Code of 1986 to provide for the amortization of delay rental payments and geological and geophysical expenditures; to the Committee on Finance.

By Mr. AKAKA:

S. 281. A bill for the relief of Vichai Sae Tung (also known as Chai Chaowasaree); to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mrs. BOXER, and Mr. CORZINE):

S. 282. A bill to amend the Family and Medical Leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. DOLE (for herself, Mr. BURR, Mr. LUGAR, Mr. ALEXANDER, Mr. SANTORUM, Mr. DODD, Mr. DURBIN, Mr. LAUTENBERG, and Mrs. LINCOLN):

S. 283. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the transportation of food for charitable purposes; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. BAYH, Mr. ALLEN, Mr. WYDEN, Mr. MCCAIN, Mr. LEVIN, Mr. CRAPO, Mr. DAYTON, Mr. HAGEL, Mr. BAUCUS, Mr. COLEMAN, Mr. HATCH, Mr. BENNETT, Mr. THOMAS, Mr. ENZI, Mr. KYL, Mr. GRASSLEY, Mr. CRAIG, Mr. LUGAR, and Mr. DOMENICI):

S. 284. A bill to distribute universal service support equitability throughout rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOND (for himself, Mr. KENNEDY, Mr. DEWINE, and Mrs. MURRAY):

S. 285. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. LIEBERMAN, Mr. SARBANES, Ms. LANDRIEU, Mr. DAYTON, Mr. LEVIN, Mr. LAUTENBERG, Mr. INOUYE, Mr. CORZINE, Mr. DURBIN, and Mr. AKAKA):

S. 286. A bill to amend section 401(b)(2) of the Higher Education Act of 1965 regarding the Federal Pell Grant maximum amount; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ENSIGN (for himself, Mr. KYL, and Mr. CRAPO):

S. 287. A bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on the Budget.

By Mr. GREGG (for himself, Mr. BAUCUS, Mr. DEWINE, Mr. BINGAMAN, Mr. ROBERTS, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 288. A bill to extend Federal funding for operation of State high risk health insurance pools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DeWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 289. A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. TALENT, Mr. INHOFE, Mr. VITTER, Ms. LANDRIEU, Mr. NELSON of Florida, and Mr. CONRAD):

S. 290. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

By Mr. ENSIGN (for himself, Mr. CHAMBLISS, Mr. CORNYN, Mr. KYL, Mr. SANTORUM, Mr. ALLARD, Mr. GRAHAM, Mr. SMITH, and Mr. CRAPO):

S. 291. A bill to require the withholding of United States contributions to the United Nations until the President certifies that the United Nations is cooperating in the investigation of the United Nations Oil-for-Food Program; to the Committee on Foreign Relations.

By Mr. VITTER:

S. 292. A bill to establish a procedure to safeguard the Social Security Trust Funds; to the Committee on the Budget.

By Ms. MURKOWSKI:

S. 293. A bill to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. NELSON of Nebraska, Mr. THUNE, Mr. THOMAS, Mr. HAGEL, Mr. ROBERTS, and Mr. BAUCUS):

S. 294. A bill to strengthen the restrictions of the importation from BSE minimal-risk regions of meat, meat byproducts , and meat food products from bovines; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHUMER (for himself, Mr. GRAHAM, Mr. BUNNING, Mr. DURBIN, Mr. REID, Mr. KOHL, Mrs. DOLE, Ms. STABENOW, Mr. DODD, Mr. LEVIN, Mrs. CLINTON, Mr. BAYH, and Mr. DEWINE):

S. 295. A bill to authorize appropriate action in the negotiations with the People's Republic of China regarding China's undervalued currency are not successful; to the Committee on Finance.

By Mr. KOHL (for himself and Ms. SNOWE):

S. 296. A bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 36. An original resolution authorizing expenditures by the Committee on the Judiciary; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mrs. MURRAY (for herself, Mr. DORGAN, Mr. JOHNSON, Mr. DODD, and Mr. FEINGOLD):

S. Res. 37. A resolution designating the week of February 7 through February 11, 2005, as ''National School Counseling Week''; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 5

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 5, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

S. 16

At the request of Mr. KENNEDY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 16, a bill to reduce to the cost of quality health care coverage and improve the availability of health care coverage for all Americans.

S. 37

At the request of Mrs. FEINSTEIN, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. DURBIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 37, supra.

S. 43

At the request of Mr. HAGEL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 43, a bill to provide certain enhancements to the Montgomery GI Bill Program for certain individuals who serve as members of the Armed Forces after the September 11, 2001, terrorist attacks, and for other purposes.

S. 44

At the request of Mr. HAGEL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 44, a bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $100,000.

S. 45

At the request of Mr. LEVIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 45, a bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 98

At the request of Mr. ALLARD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 119

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 119, a bill to provide for the protection of unaccompanied alien children, and for other purposes.

S. 157

At the request of Mr. KOHL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 157, a bill to amend the Internal Revenue Code of 1986 to permit interest on Federaly guaranteed water, wastewater, and essential community facilities loans to be tax exempt.

S. 184

At the request of Mr. GREGG, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 184, a bill to amend the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs and from counterfeit prescription drugs, and for other purposes.

S. 217

At the request of Mr. BINGAMAN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 217, a bill to amend title 49, United States Code, to preserve the essential air service program.

S. 236

At the request of Mr. NELSON of Nebraska, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 236, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 241

At the request of Ms. SNOWE, the names of the Senator from Florida (Mr. NELSON), the Senator from Montana (Mr. BAUCUS), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant

to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 256

At the request of Mr. GRASSLEY, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 256, a bill to amend title 11 of the United States Code, and for other purposes.

S. 269

At the request of Mr. KERRY, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Jersey (Mr. CORZINE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 269, a bill to provide emergency relief to small business concerns affected by a significant increase in the price of heating oil, natural gas, propane, or kerosene, and for other purposes.

S. RES. 28

At the request of Mr. DODD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 28, a resolution designating the year 2005 as the ''Year of Foreign Language Study''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 272. A bill to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

Mrs. CLINTON. Mr. President, I rise to introduce the Caribbean National Forest Act of 2005 along with Senator SCHUMER.

The Caribbean National Forest Act designates approximately 10,000 acres of the Caribbean National Forest, CNF, as the El Toro Wilderness. The El Toro Wilderness would be the only tropical forest wilderness in the U.S. National Forest system.

The CNF has long been recognized as a special area, worthy of protection. The Spanish Crown proclaimed much of the current CNF as a forest reserve in 1824. Just over 100 years ago, President Theodore Roosevelt reasserted the protection of the CNF by designating the area as a forest reserve.

Located 25 miles east of San Juan, the CNF is a biologically diverse area. Although it is the smallest forest in the national forest system, the CNF ranks number one in the number of species of native trees with 240. In addition, the CNF has 50 varieties of orchids and over 150 species of ferns. The area is also rich in wildlife with over 100 species of vertebrates, including the endangered Puerto Rican parrot. The only native parrot in Puerto Rico, they numbered nearly one million at the time that Columbus set sail for the New World. Today there are fewer than 100 of these parrots. The Forest Service, the U.S. Fish and Wildlife Service and Puerto Rico's Department of Natural Resources and the Environment have initiated a recovery program for the Puerto Rican Parrot. Wilderness designation will ensure that the forest home to the parrot will remain protected and the ongoing recovery efforts, consistent with the Wilderness Act, will continue.

The CNF also provides valuable water to the people of Puerto Rico. The CNF receives over 10 feet of rain each year. As a result, the major watersheds in the CNF are able to provide water to over 800,000 residents. In addition, the CNF provides a variety of recreational opportunities to almost one million Puerto Ricans and tourists each year. Families, friends and school groups come to the forest to hike, bird watch, picnic, swim and enjoy the scenic vistas.

Wilderness designation of the El Toro will protect approximately one third of the forest. During a House hearing on this measure in 2003 the U.S. Forest Service stated its support for the designation of the El Toro Wilderness Area. Those views were reconfirmed last July, when Mark Rey, the Department of Agriculture's Under Secretary for Natural Resources and Environment, supported my legislation during his testimony before the Senate Energy and National Resources Subcommittee on Public Lands and Forests.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Caribbean National Forest Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map dated April 13, 2004 and entitled ''El Toro Proposed Wilderness Area''.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

SEC. 3. WILDERNESS DESIGNATION, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) EL TORO WILDERNESS.—

(1) IN GENERAL.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1113 et seq.), the approximately 10,000 acres of land in the Caribbean National Forest/Luquillo Experimental Forest in the Commonwealth of Puerto Rico described in the map are designated as wilderness and as a component of the National Wilderness Preservation System.

(2) DESIGNATION.—The land designated in paragraph (1) shall be known as the El Toro Wilderness.

(3) WILDERNESS BOUNDARIES.—The El Toro Wilderness shall consist of the land described in the map.

(b) MAP AND BOUNDARY DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall—

(A) prepare a boundary description of the El Toro Wilderness; and

(B) submit the map and the boundary description to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(2) PUBLIC INSPECTION AND TREATMENT.—The map and the boundary description prepared under paragraph (1)(A)—

(A) shall be on file and available for public inspection in the office of the Chief of the Forest Service; and

(B) shall have the same force and effect as if included in this Act.

(3) ERRORS.—The Secretary may correct clerical and typographical errors in the map and the boundary description prepared under paragraph (1)(A).

(c) ADMINISTRATION.—

(1) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the El Toro Wilderness in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act.

(2) EFFECTIVE DATE OF WILDERNESS ACT.—With respect to the El Toro Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) SPECIAL MANAGEMENT CONSIDERATIONS.—Consistent with the Wilderness Act (16 U.S.C. 1131 et seq.), nothing in this Act precludes the installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and remote transmission facilities, or any combination of those facilities, in any case in which the Secretary determines that the facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

By Mr. COLEMAN (for himself, Mr. KOHL, Mr. LEAHY, Mr. SPECTER, Mr. GRAHAM, Ms. LANDRIEU, Mr. WYDEN, Mr. THUNE, Mr. VITTER, Mr. JOHNSON, Mr. DEWINE, Mr. BIDEN, Ms. COLLINS, Mr. SCHUMER, Ms. SNOWE, Mr. LAUTENBERG, Mrs. CLINTON, Mr. DAYTON, Mr. JEFFORDS, Mr. DODD, Ms. MIKULSKI, Mr. KENNEDY, Mr. KERRY, Mr. ROCKEFELLER, Mr. SARBANES, Mr. DORGAN, Mr. BOND, and Mr. HARKIN):

S. 273. A bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. COLEMAN. Mr. President, I ask unanimous consent that my legislation, which I introduce today, to extend the Milk Income Loss Compensation (MILC) program be printed in the RECORD.

I am pleased to be joined by 26 of my colleagues—over a quarter of the United States Senate. This is a bipartisan piece of legislation that has nation-wide support including in the Midwest, Northeast, Mid-Atlantic, South, and West. This is not only rare for legislative efforts generally but extremely rare in the world of dairy.

MILC is important because it provides a critical safety net for dairy farmers that is equitable to all farmers across the country—also a departure from traditional federal dairy policy.

When milk prices fell to a 25 year low not long ago, MILC was vital in preventing a mass exodus of dairy farm families in my State. Fortunately, prices have recovered more recently. But should prices fall again, my dairy farm families need the kind of safety net provided by MILC.

MILC is important in that it provides a strong safety net to all the Nation's dairy farmers in a market-oriented way that does not increase milk prices on the grocery shelf.

For these and other reasons President Bush did the right thing and endorsed the extension of MILC. I am pleased to have the support of the President in this important endeavor and I hope my colleagues will join me in our effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL DAIRY MARKET LOSS PAYMENTS.

Section 1502 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7982) is amended—

(1) in the first sentence of subsection (d)(2), by striking ''2,400,000'' and inserting ''4,800,000''; and

(2) in subsections (f) and (g)(1), by striking ''2005'' each place it appears and inserting ''2007''.

Mr. KOHL. Mr. President, I am pleased to join with a long list of colleagues in introducing a bill to extend the MILC program. This measure is supported by members from different regions of the country and both political parties. This broad base of support is a clear indication of this issue's importance.

MILC, as most of my colleagues know, is the program created in the 2002 Farm Bill after a very painful battle over the Northeast Dairy Compact. Many recall what a difficult time that was, with one group of dairymen pitted against another. I don't want to revisit that time. The MILC program bridged a bitter regional divide by providing a critical safety net when prices are low. And when prices rebound, the MILC program becomes dormant and costs nothing. The problem with MILC is that it expires on September 30 of this year—two years before the rest of the Farm Bill.

In addition to the cosponsors, MILC extension is supported by sixteen governors, including the governors of Wisconsin, Minnesota, Virginia, Vermont, Missouri, North Carolina, Pennsylvania, Idaho, Maine, Iowa, Michigan, New York, South Dakota, Ohio, Louisiana, and North Dakota. Moreover, the President of the United States committed himself to MILC extension during the presidential campaign.

I am hopeful the President's budget will include MILC extension when we receive it next Monday. That would be a helpful next step. But the fact of the matter is that budget resolutions never get signed into law in and of themselves. They are merely a framework for further discussion and work. And it will take effort both from Congress and the administration to see this extension translated into law. I look forward to working with the President and his new Secretary of Agriculture to make sure that happens.

By Mr. DEMINT:

S. 274. A bill to amend title XI of the Social Security Act to include additional information in Social Security account statements; to the Committee on Finance.

Mr. DEMINT. Mr. President, in 1999, the Social Security Administration began mailing the new Your Social Security Statement to all Americans over the age of 25 but not retired.

These statements include an accounting of Social Security taxes the individual worker has paid to date, the worker's eligibility status for benefits, and an estimate of the benefits the worker could receive.

For most Americans, this personal statement will be the sole source of official information on Social Security; yet it downplays or omits important information about the program.

The bill I am introducing today is called the Social Security Right to Know Act and would correct this problem at no cost by simply changing the statement to include information available in official reports.

The improved statement would inform workers, using information in the Social Security Trustees' Report, that the taxes paid into the program may not be sufficient to fund all of their benefits in retirement.

It would also inform workers, using information from the Office of Management and Budget, that the Social Security Trust Fund does not consist of real economic assets that can be drawn down in the future to fund benefits.

The new statement would inform workers that they pay 6.2 percent of their earnings and their employer pays 6.2 percent on their behalf, for a total Social Security payroll tax of 12.4 percent.

It would also illustrate and explain to workers using information from the Government Accounting Office that while Social Security has performed well in the past, its average rate of return is expected to decline in the future.

While we may not agree on specific changes to Social Security, we should all agree that Americans have a right to know the true financial status of the program and how it will affect their retirement.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Social Security Right to Know Act''.

SEC. 2. MATERIAL TO BE INCLUDED IN SOCIAL SECURITY ACCOUNT STATEMENT.

Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D) by striking ''and'';

(2) in subparagraph (E) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(F) a statement of the current social security tax rates applicable with respect to wages and self-employment income, including an indication of the combined total of such rates of employee and employer taxes with respect to wages; and

''(G)(i) as determined by the Chief Actuary of the Social Security Administration, a comparison of the total annual amount of social security tax inflows (including amounts appropriated under subsections (a) and (b) of section 201 of this Act and section 121(e) of the Social Security Amendments of 1983 (26 U.S.C. 401 note)) during the preceding calendar year to the total annual amount paid in benefits during such calendar year;

''(ii) as determined by such Chief Actuary—

''(I) a statement of whether the ratio of the inflows described in clause (i) for future calendar years to amounts paid for such calendar years is expected to result in a cash flow deficit,

''(II) the calendar year that is expected to be the year in which any such deficit will commence, and

''(III) the first calendar year in which funds in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund will cease to be sufficient to cover any such deficit;

''(iii) an explanation that states in substance—

''(I) that the Trust Fund balances reflect resources authorized by the Congress to pay future benefits, but they do not consist of real economic assets that can be used in the future to fund benefits, and that such balances are claims against the United States Treasury that, when redeemed, must be financed through increased taxes, public borrowing, benefit reduction, or elimination of other Federal expenditures,

''(II) that such benefits are established and maintained only to the extent the laws enacted by the Congress to govern such benefits so provide, and

''(III) that, under current law, inflows to the Trust Funds are at levels inadequate to ensure indefinitely the payment of benefits in full; and

''(iv) in simple and easily understood terms—

''(I) a representation of the rate of return that an average taxpayer retiring at retirement age (as defined in section 216(l)) credited each year with average wages and self-employment income would receive on old-age insurance benefits as compared to the total amount of employer, employee, and self-employment contributions of such a taxpayer, as determined by such Chief Actuary for each cohort of workers born in each year beginning with 1925, which shall be set out in chart or graph form with an explanatory caption or legend, and

''(II) an explanation for the occurrence of past changes in such rate of return and for the possible occurrence of future changes in such rate of return.

The Comptroller General of the United States shall consult with the Chief Actuary

to the extent the Chief Actuary determines necessary to meet the requirements of subparagraph (G).''.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 276. A bill to revise the boundary of the Wind Cave National Park in the State of South Dakota; to the Committee on Energy and Natural Resources.

Mr. JOHNSON. Mr. President, I rise today to re-introduce legislation from the previous Congress that will revise and expand the boundary to the Wind Cave National Park in Custer and Fall River County South Dakota. I am pleased that my colleague, Senator JOHN THUNE, has joined me today in introducing this important bill.

Wind Cave National Park is one of the Nation's first national parks, containing in its boundaries one of the greatest expanses of underground cave complexes in North America. Established in 1903, Wind Cave National Park protects one of the world's oldest known cave formations with hundreds of miles of underground compartments. Amazingly, scientific measurements indicate that only five percent of the total cave has been discovered.

With the option to acquire approximately 5,500 acres of land from willing sellers, Wind Cave National Park has a once-in-a-generation opportunity to significantly enhance one of the last remaining mixed-grass prairie ecosystems in the world. The acquisition of this land adjacent to the southern boundary of the park will preserve a key archaeological site described as one of the only existing buffalo jumps used by Native Americans as they hunted the giant animal.

I believe that the local park officials and the willing-seller landowner have done a good job in reaching out to the community and working to modify their original proposal to conform to the interests of adjacent landowners and the State of South Dakota. As with any land acquisition initiative the question of compensating local government's for the lost tax revenue is extremely important. The matter is particularly acute in western South Dakota, where large tracts of federal land result in particular challenges. To that end, I call on Congress to fully fund the Payment in Lieu of Taxes program and provide a dedicated revenue source to compensate local communities that have significant amounts of federal lands in the counties.

The Wind Cave National Park is a South Dakota treasure shared with the entire world through the stewardship of the National Park Service. Some four million visitors come to the Black Hills each year and tourism is one of South Dakota's leading economic engines. It is my strong desire that the Congress will quickly take the appropriate steps necessary and demonstrate positive action in the consideration of this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Wind Cave National Park Boundary Revision Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''map'' means the map entitled ''Wind Cave National Park Boundary Revision'', numbered 108/80,030, and dated June 2002.

(2) PARK.—The term ''Park'' means the Wind Cave National Park in the State.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) STATE.—The term ''State'' means the State of South Dakota.

SEC. 3. LAND ACQUISITION.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary may acquire the land or interest in land described in subsection (b)(1) for addition to the Park.

(2) MEANS.—An acquisition of land under paragraph (1) may be made by donation, purchase from a willing seller with donated or appropriated funds, or exchange.

(b) BOUNDARY.—

(1) MAP AND ACREAGE.—The land referred to in subsection (a)(1) shall consist of approximately 5,675 acres, as generally depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) REVISION.—The boundary of the Park shall be adjusted to reflect the acquisition of land under subsection (a)(1).

SEC. 4. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer any land acquired under section 3(a)(1) as part of the Park in accordance with laws (including regulations) applicable to the Park.

(b) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(1) IN GENERAL.—The Secretary shall transfer from the Director of the Bureau of Land Management to the Director of the National Park Service administrative jurisdiction over the land described in paragraph (2).

(2) MAP AND ACREAGE.—The land referred to in paragraph (1) consists of the approximately 80 acres of land identified on the map as ''Bureau of Land Management land''.

SEC. 5. GRAZING.

(a) GRAZING PERMITTED.—Subject to any permits or leases in existence as of the date of acquisition, the Secretary may permit the continuation of livestock grazing on land acquired under section 3(a)(1).

(b) LIMITATION.—Grazing under subsection (a) shall be at not more than the level existing on the date on which the land is acquired under section 3(a)(1).

(c) PURCHASE OF PERMIT OR LEASE.—The Secretary may purchase the outstanding portion of a grazing permit or lease on any land acquired under section 3(a)(1).

(d) TERMINATION OF LEASES OR PERMITS.—The Secretary may accept the voluntary termination of a permit or lease for grazing on any acquired land.

By Mr. JOHNSON (for himself, Mr. DEWINE, and Mr. HARKIN):

S. 277. A bill to amend title XVIII of the Social Security Act to provide for direct access to audiologists for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

Mr. JOHNSON. Mr. President, I am pleased to introduce the Hearing Health Acessibility Act with our colleagues Senator DEWINE and Senator HARKIN. This legislation is the companion bill to legislation that was introduced in the House by Representative JIM RYUN, with a number of cosponsors.

This legislation will, in short, provide Medicare beneficiaries with the option of direct access to audiology services, as is the case for the health care programs administered by the Department of Veterans Affairs and the Office of Personnel Management. Direct access works well for our veterans and for Federal employees, including Members of Congress, and should be available to senior citizens in the Medicare program.

In 2003, the Congress in the Appropriations Conference Report number 108–10 recommended that the Center for Medicare and Medicaid Services make this change. We have since learned from Mr. Joel Kaplan, Deputy Director, Office of Management and Budget, that CMS does not have the authority to do so under current law. Therefore, I hope that we can all agree that this is a common sense idea whose time has come, and move this legislation forward to enactment.

Direct access would facilitate access to hearing care without expanding the scope of practice for audiologists. This legislation will make it easier for Medicare beneficiaries, particularly in rural America, to have the same high quality hearing care provided by the VA and OPM. It is also important to point out that both the Medicare and Medicaid programs now recognize State licensure as the appropriate standard for determining who is a qualified audiologist.

This legislation enjoys the support the American Academy of Audiology, the American Speech-Language and Hearing Association, and the Academy of Dispensing Audiologists. I commend this legislation to the attention of my colleagues.

By Ms. COLLINS:

S. 278. A bill to revise certain requirements for H–2B employers and require submission of information regarding H–2B non-immigrants, and for other purposes; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, the recent shortage of H–2B nonimmigrant visas for temporary or seasonal non-agricultural foreign workers is a matter of great concern to many small businesses in my home State of Maine, particularly those in the hospitality sector that rely on these seasonal workers to supplement their local employees during the height of the tourism season.

On January 4, a mere 3 months into fiscal year 2005, the U.S. Citizenship and Immigration Services, CIS, announced that it would immediately

stop accepting applications for H–2B visas because the annual statutory cap of 66,000 visas had been met. In other words, many employers who require temporary workers in the spring, summer, or fall will be unable to hire such workers because all 66,000 H–2B visas will already have been issued within the first few months of the fiscal year. Once again, Maine's employers will be left out in the cold, disadvantaged by their later tourism season.

Without these visas, employers will be unable to hire enough workers to keep their businesses running at normal levels. Last year, unable to locate enough American workers willing and able to take these jobs, and without temporary foreign workers to fill the gap, many business owners were forced to initiate stop-gap measures that were neither ideal nor sustainable in the long term. Many of these businesses fear that, this year, they will have to decrease their hours of operation during what is their busiest time of year. This would translate into lost jobs for American workers, lost income for American businesses, and lost tax revenue from those businesses. These losses will be significant, and they can be avoided.

This is why I am today introducing the Summer Operations and Seasonal Equity Act of 2005. Similar to legislation that I cosponsored last year, this bill would exclude from the cap returning workers who were counted against the cap within the past 3 years. Ths legislation also seeks to address the inequities in the current system by requiring that no fewer than 12,000 visas be made available in each quarter of the fiscal year. By holding back a limited number of visas for use in each quarter, we will ensure that employers across the country, operating in all four seasons, have a fair and equal opportunity to hire these much-needed workers.

We must act quickly on this legislation, however, or we will be too late to help thousands of American businesses that need our help now. We cannot be content to say: ''It's too late for this year; maybe next year.'' It is true that comprehensive, long-term solutions may be necessary, but we have immediate needs as well. This problem demands immediate solutions.

In my home State of Maine, the economic impact of this visa shortage will be harmful and widespread. When people think of Maine, what often comes to mind is its rugged coastline, picturesque towns and villages, and its abundant lakes and forests. Not surprisingly, tourism is the State's largest industry. Temporary and seasonal workers play an important role in this very important industry.

This is because, unfortunately, there are not enough American workers willing and able to fill the thousands of jobs necessary to provide the level of service that Maine's visitors have come to expect. Over the years, seasonal workers have filled this gap, becoming an integral part of Maine's tourism and hospitality industry. In fiscal year 2003, the last time Maine's employers were able to fully utilize the H–2B program, Maine employed more than 3,000 seasonal workers. The majority of these individuals worked in the State's resorts, inns, hotels, and restaurants. Many are people who have returned to the same employer summer after summer.

Let me emphasize that employers are not permitted to hire these foreign workers unless they can prove that they have tried, and failed, to locate available and qualified American workers through advertising and other means. As a safeguard, current regulations require the U.S. Department of Labor to certify that such efforts have occurred before CIS will process the visa applications. Therefore, unless and until more H–2B visas are made available, many of these jobs will remain unfilled and American businesses will suffer.

A similar situation faces Maine's forest products industry, which contributes approximately $5.6 billion annually to Maine's economy. In 2003, more than 600 temporary workers—mostly from Canada—were employed as forestry workers in Maine. Many work in remote areas of the State where there are not enough Americans able to take these jobs. By some estimates, these foreign workers account for as much as 30–40 percent of the wood fiber that supplies paper and saw mills throughout Maine and the Northeast. This number represents roughly 4.8 million tons of wood annually. With an already significant shortage in the wood supply, the loss of these temporary workers poses a serious threat to the industry and to Maine's economy. With fewer workers available to bring wood out of the forest and into mills, supplies will dwindle, prices will continue to rise, and mills may be forced to curtail production, or even temporarily discontinue operations. If this happens, it is American workers who may lose their jobs.

The effects of the H–2B visa shortage are not limited to the tourism and forest products industries, however. It will also be felt by fisheries and lobstermen, junior league hockey and minor league baseball teams. It will affect small businesses and large, visitors and locals, young and old, from Maine to Maryland, to Wyoming and Alaska.

The shortage of nonimmigrant temporary or seasonal worker visas is a problem that must be addressed, and soon. I believe that this legislation offers a workable short-term solution, and I urge us to move forward with this solution. We must resist the tendency to let this problem, and the people who are affected by it, become entangled in the larger debate about our Nation's immigration policies. This is not about the number of immigrants we should allow to come to the United States each year, or what to do with those who violate our immigration laws. It is about temporary workers who, for the most part, respect our laws, go home at the end of their authorized stay, and in many cases, return again next year to provide services that benefit our nation's economy. It is about American businesses that rely on these workers to take jobs that many Americans do not want. It is about the economic impact that will be felt across the Nation if these businesses are unable to hire temporary workers. We need to solve this problem now, before it is too late and our economy is harmed and jobs lost.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 279. A bill to amend the Act of June 7, 1924, to provide for the exercise of criminal jurisdiction; to the Committee on Indian Affairs.

Mr. DOMENICI. Mr. President, I rise today with my colleague, Senator BINGAMAN, to introduce legislation to address a serious problem in the State of New Mexico. State case law currently holds that the State of New Mexico does not have jurisdiction to prosecute crimes that occur on privately held land within the exterior boundaries of a Pueblo. Federal case law holds that the Federal Government does not have jurisdiction to prosecute crimes that occur on these lands. Read in tandem, these court decisions lead to the result that neither Federal, State nor tribal law-enforcement officials have jurisdiction on thousands of acres of privately owned lands within the boundaries of Indian pueblos. As a result, in recent years there have been stabbings, criminal sexual-contact cases, and aggravated battery charges that have stalled in court over jurisdiction questions.

The prospect of having lands in my State where anyone can commit any crime and not be prosecuted for it is untenable and something that needs to be fixed. The legislation I am introducing today clearly outlines who is responsible for trying these cases by clarifying when a crime should be prosecuted in Federal, tribal, or State court. At the same time, the bill honors tribal sovereignty.

If we do not address this problem, it will only worsen. This legislation culminates a lot of work among the New Mexico delegation, the pueblos, and the State. It is a necessary bill. It is a good bill. And I hope that my colleagues will act quickly to clarify jurisdiction over these lands.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL JURISDICTION.

The Act of June 7, 1924 (43 Stat. 636, chapter 331) is amended by adding at the end the following:

"SEC. 20. CRIMINAL JURISDICTION.

"(a) IN GENERAL.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico, shall be as provided in this section.

"(b) JURISDICTION OF THE PUEBLO.—The Pueblo shall have jurisdiction, as an act of the inherent power of the Pueblo as an Indian tribe, over any offense committed by a member of the Pueblo or of another federally recognized Indian tribe, or by any other Indian-owned entity.

"(c) JURISDICTION OF THE UNITED STATES.—The United States shall have jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against a member of any federally recognized Indian tribe or any Indian-owned entity, or that involves any Indian property or interest.

"(d) JURISDICTION OF THE STATE OF NEW MEXICO.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a federally recognized Indian tribe, which offense is not subject to the jurisdiction of the United States.".

By Mrs. HUTCHISON:

S. 280. A bill to amend the Internal Revenue Code of 1986 to provide for the amortization of delay rental payments and geological and geophysical expenditures; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I rise today to offer a bill that will bolster our energy independence by clarifying current tax law regarding domestic oil and gas production.

We need to promote domestic energy supplies because we are increasingly dependent on foreign oil to meet our energy needs. We currently import almost 60 percent from foreign countries. Promoting domestic production is both an economic and national security issue.

The rational treatment of costs associated with exploration and production of energy resources is vital to attracting and retaining financing in an inherently capital-intensive industry. The bill I am introducing helps in this regard by allowing accelerated deduction of geological and geophysical (G&G) costs and delay rental payments. Specifically, this legislation will allow these expenses to be amortized over a 2 year period. This will encourage further development of the United States oil and gas industry.

There is no reason G&G expenditures should be considered capital expenditures with a long amortization period rather than treating them more like research and development costs. Our current tax code needlessly limits the ability of domestic producers to develop our national petroleum reserves.

Congress also needs to clarify that delay rental payments are deductible as ordinary and necessary business expenses. This is important for developers who cannot afford to run continuous operations on the properties they hold. The current uncertainty of how these costs are to be treated has led to costly litigation; prompt clarification will eliminate needless administrative burdens on taxpayers and the Internal Revenue Service.

I urge my colleagues to support this bill as an important step in developing energy independence. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMORTIZATION OF DELAY RENTAL PAYMENTS.

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.—

"(1) IN GENERAL.—Any delay rental payment paid or incurred in connection with the development of oil or gas wells within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such payment was paid or incurred.

"(2) HALF-YEAR CONVENTION.—For purposes of paragraph (1), any payment paid or incurred during the taxable year shall be treated as paid or incurred on the mid-point of such taxable year.

"(3) EXCLUSIVE METHOD.—Except as provided in this subsection, no depreciation or amortization deduction shall be allowed with respect to such payments.

"(4) TREATMENT UPON ABANDONMENT.—If any property to which a delay rental payment relates is retired or abandoned during the 24-month period described in paragraph (1), no deduction shall be allowed on account of such retirement or abandonment and the amortization deduction under this subsection shall continue with respect to such payment.

"(5) DELAY RENTAL PAYMENTS.—For purposes of this subsection, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 2. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.—

"(1) IN GENERAL.—Any geological and geophysical expenses paid or incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) shall be allowed as a deduction ratably over the 24-month period beginning on the date that such expense was paid or incurred.

"(2) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of paragraphs (2), (3), and (4) of subsection (h) shall apply.".

(b) CONFORMING AMENDMENT.—Section 263A(c)(3) of the Internal Revenue Code of 1986 is amended by inserting "167(h), 167(i)," after "under section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after the date of the enactment of this Act.

By Mr. DODD (for himself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. CLINTON, Mr. DURBIN, Mr. LAUTENBERG, Mr. LEAHY, Mr. AKAKA, Mrs. BOXER, and Mr. CORZINE):

S. 282. A bill to amend the Family and Medical leave Act of 1993 to expand the scope of the Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to join with my colleagues Senator KENNEDY, Senator MIKULSKI, Senator MURRAY, Senator CLINTON, Senator DURBIN, Senator LAUTENBERG, Senator LEAHY, Senator AKAKA, Senator BOXER, and Senator CORZINE, to introduce the "Family and Medical Leave Expansion Act." Today marks the 12th anniversary of the enactment of the Family and Medical Leave Act. This landmark legislation was nearly a decade in the making, but today, more than 50 million Americans have taken leave under FMLA.

Despite the many Americans the Family and Medical Leave Act has helped, too many continue to be left behind. Too many continue to have to choose between job and family. The facts are clear: millions of Americans remain uncovered by the Family and Medical Leave Act. And too many who are eligible for the Family and Medical Leave Act cannot afford to take unpaid leave from work. The "Family and Medical Leave Expansion Act", which we are introducing today addresses both these problems.

The "Family and Medical Leave Expansion Act" would expand the scope and coverage of FMLA. It would fund pilot programs at the state level to offer partial or full wage replacement programs to ensure that employees do not have to choose between job and family.

Times have changed over the years. More and more mothers are working. While decades ago only a tiny fraction of mothers with infants under one year of age were working, in 2004 about 55 percent of mothers with infants were working. Even as employment rates within this group rises, family responsibilities remain constant, a reality that lies at the core of the FMLA. According to an employee survey by the Department of Labor, about one-fifth of U.S. workers have a need for some form of leave covered under the FMLA, and about 40 percent of all employees think they will need FMLA-covered leave within the next 5 years.

According to a Department of Labor study in 2000, leave to care for one's own health or for the health of a seriously ill child, spouse or parent, together account for almost 80 percent of all FMLA leave. Approximately 52 percent of the leave taken is due to employees' own serious health problems, while 26 percent of the leave is taken by young parents caring for their children at birth or adoption.

The FMLA requires that all public sector employers and private employers of 50 or more employees provide up to 12 weeks of unpaid leave for medical and family care reasons for eligible employees. About 77 percent of employees in the private and public sector currently work in FMLA-covered sites, although only 62 percent of employees are actually eligible for leave.

However, only 11 percent of private sector work sites are covered under FMLA. Individuals working for smaller private employers deserve the same work protections afforded to other employees. As a step toward expanding protection to more hard-working Americans, this bill would extend FMLA coverage to all private sector worksites with 25 or more employees within a 75-mile radius. This would mean that an additional 13 million Americans would be eligible for leave under the Act—roughly 240,000 in my own State of Connecticut.

Mothers and fathers, adult sons and daughters have the same family responsibilities and personal health problems, regardless of whether they work for the government, a large private enterprise, or a medium-sized private business. Expanding the FMLA to businesses with 25 or more employees is a crucial acknowledgment of this reality.

The bill recognizes the enormous physical and emotional toll domestic violence takes on victims. The bill expands the scope of FMLA to include leave for individuals to care for themselves or to care for a daughter, son, or parent suffering from domestic violence.

Expanding the scope and coverage of FMLA is a positive step for many Americans. But, alone, it is not enough. According to a Department of Labor study, 3.5 million covered Americans needed leave but—without wage replacement—could not afford to take leave. Over four-fifths of those who needed leave but did not take it said they could not afford unpaid leave.

Others cut their leave short, with the average duration of FMLA leave being 10 days. Of those individuals taking leave under the Family and Medical Leave Act, nearly three-quarters had incomes above $30,000.

While the financial sacrifice is often enormous, the need for leave can be even more so. Every year, many Americans bite the bullet and accept unpaid leave. As a result, nine percent of leave takers go on public assistance to cover their lost wages. Almost twelve percent of female leave takers use public assistance for this reason. These individuals are far from being unwilling to work. Instead, they are trying to balance work with family—often during a crisis, too often with inadequate means to get by.

Other major industrialized nations have implemented policies far more family-friendly to promote early childhood development and family caregiving. At least 128 countries provide paid and job-protected maternity leave, with an average of sixteen weeks of basic paid leave. In 1992, before we enacted the Family and Medical Leave Act, the European Union mandated a paid fourteen-week maternity leave as a health and safety measure. Among the 29 Organization for Economic Cooperation and Development (OECD) countries, the average childbirth-related leave is 44 weeks, while the average duration of paid leave is 36 weeks.

Compared to these other developed nations, the United States is far behind in efforts to promote stronger families and worker productivity. The ''Family and Medical Leave Expansion Act'' builds on current law to provide pilot programs for States and the federal government to provide for partial or full wage replacement for at least 6 weeks. At a minimum, this will ensure that parents can continue to make ends meet while taking family and medical leave.

When we talk about a more compassionate America, nowhere is that more evident than in our caregiving leave policies. No one should have to choose between work and family. Women and men deserve to take leave when family or health conditions require it without fear of losing their job or livelihood. We must not simply pay lip service to family integrity and the promotion of a healthy workplace.

We talk often of our need to strengthen family values. We cite studies about the importance of the first few months of a newborn's life. This bill offers more parents the opportunity to spend time with their families when their families most need them.

I urge my colleagues to support the ''Family and Medical Leave Expansion Act'' to promote our family values and to ensure the welfare and health of hard-working Americans.

I ask unanimous consent that a copy of a brief summary of the Family and Medical Leave Expansion Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE FAMILY AND MEDICAL LEAVE EXPANSION ACT

BRIEF SUMMARY

Background: Since enactment in 1993, more than 50 million employees have taken leave under the Family and Medical Leave Act. The Act guarantees eligible employees working for covered employers access to up to 12 weeks of unpaid, job-protected leave within any 12-month period to care for their health or the health of their families without putting their jobs or health insurance at risk. About 11 percent of private sector businesses are covered under FMLA; 77 percent of employees work in these covered businesses (although about 62 percent of employees are eligible for FMLA).

According to data from a 2001 Department of Labor study, 52 percent of leave-takers have taken time off to care for their own serious illness; 26 percent have taken time off to care for a new child or for maternity disability reasons; 13 percent have taken time off to care for a seriously ill parent; 12 percent have taken time off to care for a seriously ill child; and 6 percent have taken time off to care for a seriously ill spouse. About 42 percent of leave takers are men; about 58 percent of leave-takers are women. The median length of leave is 10 days; 80 percent of leaves are for 40 days or fewer. About 73 percent of leave-takers earn $30,000 or more.

While the Family and Medical Leave Act has proven invaluable to many Americans, too many are still not covered by the law and others cannot afford to take leave under the Act because leave is unpaid. Many women and men are unable to take time off to care for their families, whether due to the arrival of a new child or when a medical crisis strikes. More than three in four (78 percent) employees who have needed but who have not taken leave report that they simply could not afford it.

The Family and Medical Leave Expansion Act would expand the scope and coverage of FMLA to ensure that even more American workers do not have to choose between job and family. Too many eligible individuals simply cannot afford unpaid leave. Many forgo leave or take the shortest amount of time possible because the current FMLA law requires only unpaid leave. The Family and Medical Leave Expansion Act would:

Establish a pilot program to allocate grants to states to provide paid leave for at least 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or family illness. States may provide for wage replacement directly or through an insurance program, such as a state temporary disability program or a state unemployment compensation program, or other mechanism. Such paid leave shall count toward an eligible employee's 12 weeks of leave under FMLA.

Expand the number of individuals eligible for FMLA by covering employers with 25 or more employees (to enable 13 million more Americans to take FMLA).

Expand the reasons for leave to include eligible employees addressing domestic violence and its effects, which make the employee unable to perform the functions of the position of such employee or, to care for the son, daughter, or parent of the employee, if such individual is addressing domestic violence and its effects.

Establish a pilot program within the federal government for the Office of Personnel Management (OPM) to administer a partial or full wage replacement for at least 6 weeks to eligible employees responding to caregiving needs resulting from the birth or adoption of a child or other family caregiving needs. Such paid leave shall count toward an eligible employee's 12 weeks of leave under FMLA.

Allows employees to use a total of 24 hours during any 12 month period to participate in a school activity of a son or daughter, such as a parent-teacher conference, or to participate in literacy training under a family literacy program.

By Mr. SMITH (for himself, Mr. BAYH, Mr. ALLEN, Mr. WYDEN, Mr. MCCAIN, Mr. LEVIN, Mr. CRAPO, Mr. DAYTON, Mr. HAGEL, Mr. BAUCUS, Mr. COLEMAN, Mr. HATCH, Mr. BENNETT, Mr. THOMAS, Mr. ENZI, Mr. KYL, Mr. GRASSLEY, Mr. CRAIG, Mr. LUGAR, and Mr. DOMENICI):

S. 284. A bill to distribute universal service support equitability throughout rural America, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. President, I rise today to shine a spotlight on one of the most

lopsided and unfair programs in the Federal Government, and to reintroduce legislation to correct it.

Every year, the Federal Government collects millions of dollars in ''universal service'' surcharges on telephone bills. In part, this money is intended to be used to provide, affordable telephone service in isolated, rural areas—a goal we all support.

Unfortunately, instead of sending these funds equitably to rural areas throughout the United States, many residents in 40 States—including some of the most rural States in the country—receive no support from this program, while a few States receive enormous windfalls. In 2005, about 75 percent of a key universal service fund account is projected to go to just three States and a single State will receive more than half of the funding provided by this program. All of this continues the pattern of lopsided funding distribution seen in recent years.

I am referring to the Federal Universal Service Fund program for so-called ''non-rural carriers.'' This is a ridiculous misnomer because more than 70 percent of all rural Americans are served by one of 30 so-called ''non-rural'' carriers. If you live in a small, isolated town or rural area, you are likely served by one these carriers, and chances are your community is receiving none of the benefits of this program.

The calls to fix this program have been growing louder and louder. In the 108th Congress, more than 80 independent organizations and state and local officials called on us to fix this unfair, broken program, including 21 governors, 38 State utility commissioners, the American Farm Bureau Federation, the National Grange, and groups representing business, labor, consumers, minorities, and the rural poor.

Responding to that broad support, more than 30 Senators and 80 Representatives cosponsored my bill or the House companion measure offered by Mr. TERRY of Nebraska and Mr. STUPAK of Michigan last Congress. And the Senate Commerce Committee approved my bill on a strong bipartisan vote.

Today, I am reintroducing the Rural Universal Service Equity Act, along with 19 of my colleagues. This legislation would guarantee a fairer, more targeted distribution of the non-rural-carrier account by requiring allocations to be based on actual community needs, not an arbitrary mathematical formula.

Beyond basic fairness for the majority of rural America, there are at least two additional reasons to enact this legislation.

First, it will help overcome the ''digital divide'' between urban and rural America, and prevent it from growing worse. As long as the current rules remain in place, the majority of rural communities and the telephone companies that serve them will suffer a significant competitive disadvantage in today's digital economy.

Second, the bill will fix this program while keeping a tight rein on USF expenditures. My legislation would redistribute existing funds more fairly, without imposing any additional burdens on the USF or requiring increased federal spending or revenues.

Finally, my bill would not interfere with important efforts to fix other serious problems in the Universal Service Fund. We all know the USF must be modernized and reformed to reflect the challenges and technologies of the 21st Century.

But the broader USF reform debate is likely to be contentious and protracted. In the meantime, we should be able to correct a shameful inequity in a program that is intended to benefit the majority of rural Americans. And we should do it as soon as possible.

Once again I thank my colleagues and friends across America who have helped in this effort to date, and I call upon all members of the Senate to become cosponsors of the Rural Universal Service Equity Act. I ask unanimous consent that the text of legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Universal Service Equity Act of 2005''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Federal Communications Commission's high-cost model support program for certain carriers provides no Federal support to 40 States.

(2) Federal universal service support should be calculated and targeted to small geographic regions within a State to provide greater assistance to the rural consumers most in need of support.

(3) Local telephone competition and emerging technologies are threatening the viability of Federal universal service support.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To begin consideration of universal service reform.

(2) To spread the benefits of the existing Federal high-cost model support mechanism more equitably across the nation.

SEC. 3. COMPTROLLER GENERAL REPORT ON NEED TO REFORM HIGH-COST SUPPORT MECHANISM.

Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the need to reform the high-cost support mechanism for rural, insular, and high-cost areas. As part of the report, the Comptroller General shall provide an overview and discuss whether—

(1) existing Federal and State high-cost support mechanisms ensure rate comparability between urban and rural areas;

(2) the Federal Communications Commission and the States have taken the necessary steps to remove implicit support;

(3) the existing high-cost support mechanism has affected the development of local competition in urban and rural areas; and

(4) amendments to section 254 of the Communications Act of 1934 (47 U.S.C. 254) are necessary to preserve and advance universal service.

SEC. 4. ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT FOR HIGH-COST AREAS.

Section 254 of the Communications Act of 1934 (47 U.S.C. 254) is amended by adding at the end the following new subsection:

''(m) UNIVERSAL SERVICE SUPPORT FOR HIGH-COST AREAS.—

''(1) CALCULATING SUPPORT.—In calculating Federal universal service support for eligible telecommunications carriers that serve rural, insular, and high-cost areas, the Commission shall, subject to paragraphs (2) and (3), revise the Commission's support mechanism for high-cost areas to provide support to each wire center in which the incumbent local exchange carrier's average cost per line for such wire center exceeds the national average cost per line by such amount as the Commission determines appropriate for the purpose of ensuring the equitable distribution of universal service support throughout the United States.

''(2) HOLD HARMLESS SUPPORT.—In implementing this subsection, the Commission shall ensure that no State receives less Federal support calculated under paragraph (1) than the State would have received, up to 10 percent of the total support distributed, under the Commission's support mechanism for high-cost areas as in effect on the date of the enactment of this subsection.

''(3) LIMITATION ON TOTAL SUPPORT TO BE PROVIDED.—The total amount of support for all States, as calculated under paragraphs (1) and (2), shall be equivalent to the total support calculated under the Commission's support mechanism for high-cost areas as in effect on the date of the enactment of this subsection.

''(4) CONSTRUCTION OF LIMITATION.—The limitation in paragraph (3) shall not be construed to preclude fluctuations in support on the basis of changes in the data used to make such calculations.

''(5) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this subsection, the Commission shall complete the actions (including prescribing or amending regulations) necessary to implement the requirements of this subsection.

''(6) DEFINITION.—In this subsection, the term 'Commission's support mechanism for high-cost areas' means section 54.309 of title 47, Code of Federal Regulations and the regulations referred to in such section.''.

SEC. 5. NO EFFECT ON RURAL TELEPHONE COMPANIES.

Nothing in this Act shall be construed to affect the support provided to an eligible telecommunications carrier under section 214(e) of the Communications Act of 1934 (47 U.S.C. 214(e)) that is a rural telephone company (as defined in section 3 of such Act (47 U.S.C. 153)).

By Mr. DODD (for himself, Ms. MIKULSKI, Mr. JEFFORDS, Mrs. MURRAY, Mr. LIEBERMAN, Mr. SARBANES, Ms. LANDRIEU, Mr. DAYTON, Mr. LEVIN, Mr. LAUTENBERG, Mr. INOUYE, Mr. CORZINE, Mr. DURBIN, and Mr. AKAKA):

S. 286. A bill to amend section 401(b)(2) of the Higher Education Act of 1965 regarding the Federal Pell Grant maximum amount; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise and am joined by my colleagues Senators MIKULSKI, JEFFORDS, MURRAY, LIEBERMAN, SARBANES, LANDRIEU, DAYTON, LEVIN, LAUTENBERG, INOUYE,

CORZINE, DURBIN and AKAKA to introduce legislation to amend the Higher Education Act to improve access to higher education for low- and middle-income students by raising the authorized maximum Pell Grant to $11,600 within five years. This bill has the strong support of the Student Aid Alliance, whose 60 organizations represent students, colleges, parents, and others who care about higher education.

Pell Grants were established in the early 1970s by our former colleague, I Claiborne Pell, of Rhode Island. They are the largest source of Federal grant aid for college students. For millions of low- and middle-income students they are the difference between attending or not attending college. But, unfortunately, they don't make as much of a difference as they used to.

In 1975, the maximum appropriated Pell Grant covered all of the average student's tuition, fees, room, and board at community colleges. It covered about 80 percent of those costs at public universities and about 40 percent at private universities. In 2003, the average Pell Grant covered 32 percent of tuition, room and board at community colleges, 23 percent of the total charges at public universities, and 9 percent of total charges at private universities. That's not just a drop, it's a free-fall.

For low- and middle-income families, the cost of college also has increased significantly as a percentage of income. College is getting farther and farther out of reach for an entire generation of students.

As a result of all this, low- and middle-income students who want to attend college are forced to finance their education with an ever-increasing percentage of loans as opposed to grants. This increases the cost of attendance for these students even more, and in many cases, keeps them from going to college at all.

For four years now, the Administration has not raised the maximum Pell Grant. On top of leaving millions of children behind by failing to meet the bipartisan promises of the No Child Left Behind Act, they have left even more children behind who work hard and do well in school and want to go on to college. If we're serious about leaving no child behind, if we're serious about having a society where equal opportunity for all is more than just rhetoric, then we need to reinvigorate the Pell program.

It has been said that investing in a student's future is investing in our Nation's future. We can start investing in our Nation's future by supporting this bill to increase the maximum appropriated Pell Grant to $11,600. This bill won't bring the Pell Grant's purchasing power back to where it was in 1975, but it is a critical first step, and I intend to continue my efforts on this matter throughout this Congress. I hope that my colleagues will join me.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FEDERAL PELL GRANT MAXIMUM AMOUNT.

Section 401(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by striking subparagraph (A) and inserting the following:

''(A) Except as provided in subparagraph (B), the amount of the Federal Pell Grant for a student eligible under this part shall be—

''(i) $7,600 for academic year 2005–2006;

''(ii) $8,600 for academic year 2006–2007;

''(iii) $9,600 for academic year 2007–2008;

''(iv) $10,600 for academic year 2008–2009; and

''(v) $11,600 for academic year 2009–2010,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.''; and

(3) by inserting after subparagraph (A) (as amended by paragraph (2)) the following:

''(B) If the Secretary determines that the increase from one academic year to the next in the amount of the maximum Federal Pell Grant authorized under subparagraph (A) does not increase students' purchasing power (relative to the cost of attendance at an institution of higher education) by not less than 5 percentage points, then the amount of the maximum Federal Pell Grant authorized under subparagraph (A) for the academic year for which the determination is made shall be increased by an amount sufficient to achieve such a 5 percentage point increase.''.

Mr. ENSIGN (for himself, Mr. KYL, and Mr. CRAPO):

S. 287. A bill to require the Congressional Budget Office and the Joint Committee on Taxation to use dynamic economic modeling in the preparation of budgetary estimates of proposed changes in Federal revenue law; to the Committee on the Budget.

Mr. ENSIGN. Mr. President, I rise today to introduce legislation to require the Joint Committee on Taxation and the Congressional Budget Office to use dynamic scoring, in addition to traditional static scoring, when estimating the effects of tax policy changes.

For too long, Congress has debated changes to the tax code without the benefit of knowing how those changes might affect the Federal Government's revenue and the overall economy. I have believed that Washington, DC should consider the dynamic effect of tax cuts ever since I was first elected to Congress. This is why I am introducing this legislation today and why I first introduced this bill back in 2003.

On January 24, 2005, The Wall Street Journal published an article that explained the need for dynamic scoring. I agree with the article: certain tax cuts can stimulate our Nation's economy, and in turn, increase the Federal Government's revenue. What the article explains is that a dollar in tax cuts does not necessarily result in a dollar of lost revenue. The right type of tax cut will encourage growth and job creation and will expand the economy. This expansion will in turn increase tax revenue. I would ask unanimous consent that the text of that article be reprinted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 24, 2005]

GAINING CAPITAL

Some people continue to believe, or at least still assert, that tax rates don't influence taxpayer behavior all that much. We therefore direct their attention to the Treasury Department's latest historical data on revenues from taxes on capital gains.

The numbers look like a 25-year demonstration of the Laffer Curve in action. Taxes paid on capital gains have been highly responsive to the maximum capital gains tax rate. Especially notable is how, over the years, capital gains realizations and the taxes paid on those gains have tended to increase in the years following a cut in the capital gains tax rate.

The reductions highlighted in the chart include the famous William Steiger tax rate cut that passed Congress in late 1978 over Jimmy Carter's objections, the Reagan tax cut passed in 1981, and the cut that was part of the Clinton-Gingrich balanced budget deal of 1997. All of those reductions caused taxpayers to cash in more of their gains and thus yielded revenue windfalls for the federal Treasury in succeeding years.

On the other hand, the capital gains tax increase of 1986—which moved the rate back up to 28% from 20%—proved to be a revenue disaster. Taxes paid on long-term capital gains (those typically held longer than one year) fell off a cliff to $33.7 billion in 1987 from $52.9 billion a year earlier. And they stayed at close to that mediocre lower level for nearly another decade. In other words, higher rates didn't do anyone any good, not even the politicians who thought they'd be getting more tax revenue to spend.

We aren't asserting that tax-rate changes have been the only factors influencing revenue changes. The performance of the broader economy and the stock market have also mattered a great deal. Capital gains revenues boomed in the late 1990s after the 1997 rate cut, but they fell abruptly with the bursting of the dot-com and tech bubbles in 2001.

The evidence is overwhelming, however, that lower rates induced more taxpayers to realize their capital gains, and thus produced more tax revenue despite the lower rates. The top capital gains rate was cut again in 2003, to 15%, and it is likely that Treasury will also report an increase in revenues in that year and in 2004 as the stock-market rebounded smartly.

In each of these episodes, we should add, Congress's Joint Tax Committee predicted more or less the opposite. Wedded to its static models that underestimate the impact of behavioral incentives, Joint Tax predicted revenue losses from tax-rate cuts and revenue gains from tax-rate increases. In recent years Joint Tax has finally acknowledged some ''unlocking'' effect on capital gains realizations from lower rates, but it still refuses to recognize any revenue impact from faster economic growth or from a stronger stock-market that tax reductions on capital help to promote.

The refusal to take control of Joint Tax has been a major failure of the GOP Congress, and should be a priority as it contemplates tax reform that President Bush has said must be ''revenue neutral.'' Republicans will have a much better chance of

passing a pro-growth tax reform with lower rates if they have a revenue-estimating bureaucracy that is pledged to accuracy instead of to its old habits. Ways and Means Chairman Bill Thomas, take note.

Mr. ENSIGN. The current method of assessing proposed changes in tax policy, static scoring, assumes tax cuts or tax hikes have no effect on how taxpayers work, save, and invest their money. This model implies that tax policy changes have no effect on our economy, never produce higher or lower revenues, and never cause resources to shift within our federal budget. This is simply incorrect. Tax policy changes can have a huge impact on our economy.

The idea that tax relief and investment incentives will strengthen our economy is not a new one. On April 15, 1986, President Reagan spoke about the positive effects tax relief can have on economic growth. He stated: ''whatever you want to call it, supply side economics or incentive economics . . . it's launching the American economy into a new era of growth and opportunity. . . .''

What President Reagan stated so eloquently in 1986 holds true today. Economic growth is more easily achieved in an atmosphere where more Americans are able to save and invest their money. Tax relief provides economic growth. When we draft legislation, we should understand not only the cost of tax relief to the federal budget but also the benefits that tax relief provides to the economy. To create jobs. And to ultimately increase tax revenue for the federal government in the long run.

Tax relief provides jobs and profits, no matter who is in the White House and no matter who holds the majority in Congress. It is time for Congress to make choices with a better understanding of the real-world implications of those choices. This will better enable us to determine how much relief we can afford to give to American families.

The debate on dynamic versus static scoring may sound like an inside-the-Beltway squabble but as I have said today, the decision on how to estimate revenues does have important real-world implications. For example, better revenue estimating methods would make it easier to implement tax rate reductions. This would put more money into the pockets of taxpayers, which would have a very real positive effect on our economy.

Today, American families face the challenge of providing food, clothing, and shelter for their children; saving for their children's education; and paying for health care. When government raises taxes, we force parents to work even harder so that they can meet these obligations and have money left over to enjoy a family vacation or put money away for their retirement. I believe in the American family because it is these families that make America great. I trust the American family and believe that they can far better take care of their needs when Congress demands less of what they earn.

I should clarify that this legislation does not negate Congress' use of the currently used static scoring model. This bill simply directs CBO and the Joint Tax Committee to develop both static and dynamic scoring estimates for Congress to consider. This will create a system that will allow Congress a side-by-side analysis of both scoring methods so that Congress can better make decisions regarding tax policy that will grow our economy and create jobs.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENSE OF CONGRESS.

It is the sense of Congress that it is necessary to ensure that Congress is presented with reliable information from the Congressional Budget Office and the Joint Committee on Taxation as to the dynamic macroeconomic feedback effects to changes in Federal law and the probable behavioral responses of taxpayers, businesses, and other parties to such changes. Specifically, the Congress intends that, while not excluding any other estimating method, dynamic estimating techniques shall also be used in estimating the fiscal impact of proposals to change Federal laws, to the extent that data are available to permit estimates to be made in such a manner.

SEC. 2. ESTIMATES OF THE JOINT COMMITTEE ON TAXATION.

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Joint Committee on Taxation of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Joint Committee on Taxation determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of $250,000,000 in any fiscal year.

SEC. 3. ESTIMATES OF THE CONGRESSIONAL BUDGET OFFICE.

In addition to any other estimates it may prepare of any proposed change in Federal revenue law, a fiscal estimate shall be prepared by the Congressional Budget Office of each such proposed change on the basis of assumptions that estimate the probable behavioral responses of personal and business taxpayers and other relevant entities to that proposed change and the dynamic macroeconomic feedback effects of that proposed change. The preceding sentence shall apply only to a proposed change that the Congressional Budget Office determines, pursuant to a static fiscal estimate, has a fiscal impact in excess of $250,000,000 in any fiscal year.

SEC. 4. DISCLOSURE OF ASSUMPTIONS.

Any report to Congress or the public made by the Joint Committee on Taxation or the Congressional Budget Office that contains an estimate made under this Act of the effect that any legislation will have on revenues shall be accompanied by—

(1) a written statement fully disclosing the economic, technical, and behavioral assumptions that were made in producing that estimate, and

(2) the static fiscal estimate made with respect to the same legislation and a written statement of the economic, technical, and behavioral assumptions that were made in producing that estimate.

SEC. 5. CONTRACTING AUTHORITY.

In performing the tasks specified in this Act, the Joint Committee on Taxation and the Congressional Budget Office may, subject to the availability of appropriations, enter into contracts with universities or other private or public organizations to perform such estimations or to develop protocols and models for making such estimates.

By Mr. DeWINE (for himself, Mr. LEAHY, and Mr. DOMENICI):

S. 289. A bill to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with Senators LEAHY and DOMENICI, to introduce a bill that would reauthorize ''America's Law Enforcement and Mental Health Project Act.'' This program addresses the impact that mentally ill offenders have had on our criminal justice system and the impact the system has had on the offenders and their special needs.

My interest in, and experience with this issue began over 30 years ago, when I was working as Assistant County Prosecuting Attorney in Greene County, OH, and then as County Prosecutor. What I learned then—and what I have continued to encounter throughout my career in public service—is that our State and local correctional facilities have become way stations for far too many mentally ill individuals in our Nation.

A recent Justice Department study revealed that 16 percent of all inmates in America's State prisons and local jails today are mentally ill. The American Jails Association estimates that 600,000 to 700,000 seriously mentally ill persons each year are booked into local jails, alone. In Ohio, nearly one in five prisoners need psychiatric services or special accommodations. As these statistics make clear, far too many of our Nation's mentally ill persons have ended up in our prisons and jails. In fact, on any given day, the Los Angeles County Jail is home to more mentally ill inmates than the largest mental health care institution in our country.

How did we wind up in this situation? What happens is that all too often, the mentally ill act out their symptoms on the streets. They are arrested for minor offenses and wind up in jail. They serve their sentences or are paroled, but do not receive any treatment for their underlying mental illness. Not surprisingly, they often find themselves right back in the system only a short time later after committing additional—often more serious—crimes.

Throughout this destructive cycle, law enforcement and corrections spend time and money trying to cope with the unique problems posed by these individuals. Certainly, many mentally ill

offenders must be incarcerated because of the severity of their crimes. However, those who commit very minor, non-violent offenses don't necessarily need to be incarcerated; instead, if given appropriate treatment early, their illnesses could be addressed, helping the offenders, while reducing recidivism and decreasing the burdens on our police and corrections officials.

That is why, six years ago Senator DOMENICI and I introduced America's Law Enforcement and Mental Health Project, to begin to identify—early in the process—mentally ill offenders within our justice system and to use the power of the courts to assist them in obtaining the treatment they need.

This program has been a success. In pilot programs around the country, mental health courts have begun to help local communities take steps toward effectively addressing the issues raised by the mentally ill in our justice system, and these steps must continue. The legislation that we are introducing today will help do that. Our bill would establish a Federal grant program to help States and localities develop mental health courts in their jurisdictions. These courts are specialized courts with separate dockets. They hear cases exclusively involving nonviolent offenses committed by individuals with a mental illness. Fundamentally, mental health courts enable State and local courts to offer alternative sentences or alternatives to prosecution for those offenders who could be served best by mental health services. These courts are designed to address the historic lack of coordination between local law enforcement and social service systems and bring them together to work within the criminal justice system.

To deal with the separate needs of mentally ill offenders, these mental health courts are staffed by a core group of specialized professionals, including a dedicated judge, prosecutor, public defender, and court liaison to the mental health services community. The courts promote efficiency and consistency by centrally managing all outstanding cases involving a mentally ill defendant referred to the mental health court.

Mental health court judges decide whether or not to hear each case referred to them. The courts only deal with defendants deemed mentally ill by qualified mental health professionals or the mental health court judge. Similarly, participation in the court by the mentally ill is voluntary; however, once the defendant volunteers for the Mental Health Court, he or she is expected to follow the decision of the court.

For instance, in any given case, the mental health court judge, attorneys, and health services liaison may all agree on a plan of treatment as an alternative sentence or in lieu of prosecution. The defendant must adhere strictly to this court-imposed treatment plan. The court must then provide supervision, and quickly deal with any failure. This way, the court can quickly deal with any failure of the defendant to fulfill the treatment plan obligations. The mental health courts provide supervision of participants that is more intensive than might otherwise be available, with an emphasis on accountability and monitoring the participant's performance. In this sense, the mental heath courts function similarly to drug courts.

Offenders with a mental illness who choose to have their cases heard in a mental health court often do so because that is the first real opportunity that many of these people have to seek treatment. A judicial program offering the possibility of effective treatment—rather than jail time—gives a measure of hope and a chance for rehabilitation to these defendants.

The successes of mental health courts are encouraging and show that we can improve the health and safety of our communities through these programs. In Ohio, the Alcohol, Drug and Mental Health Services Board which serves Athens, Hocking and Vinton Counties, began operating its program on August 2003 after receiving a mental health court grant under the original America's Law Enforcement and Mental Health Project Act. Success stories from this program are numerous, but let me focus on one individual here. D.L. is a 53 year old man who struggled with Bipolar Disorder for years. Arrested for trespassing in 2003, D.L. was the ideal candidate for the Mental Health Court. Having completed individual counseling, and never missing a single psychiatric appointment, D.L. completed the program last May. He is now viewed as a potential mentor for other program participants.

Many jurisdictions across America have established mental health courts as a result of the program that we established four years ago. Our Nation's communities are trying desperately to find the best way to cope with the problems associated with mental illness. Law enforcement agencies and correctional facilities remain challenged by difficulties posed by mental illnesses.

Mental health courts offer a solution.

Mental health courts have shown great success, and we must ensure their continuation. Our Nation has long been enriched by the dual ideals of compassion and justice, and these programs are a wonderful embodiment of both ideals. I urge my colleagues to join in support of this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2006 through 2011''.

By Mr. BOND (for himself, Mr. TALENT, Mr. INHOFE, Mr. VITTER, Ms. LANDRIEU, Mr. NELSON of Florida, and Mr. CONRAD):

S. 290. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce legislation concerning a critical issue that affects many States—disaster assistance. Last year was one of the worst hurricane seasons that Florida had seen in recent years. The Sunshine State was battered by four hurricanes in a six week period. Many residents of Florida had to evacuate more than three times during last year's hurricane season only to return home and find their homes leveled, their crops uprooted, their neighborhoods flooded, and their dreams shattered.

In my home State of Missouri, we are no strangers to natural disasters. Located smack in the middle of Tornado Alley, Missouri has been hit by some of the largest storms in U.S. history. In May of 2003, a string of tornadoes ripped through the western part of the state causing major damage and devastation.

With two big rivers—the Mississippi and the Missouri—we have also seen our fair share of flooding through the years, including flash flooding. I will never forget when the Mississippi River breached its banks in 1993—one of the most devastating floods in U.S. history. Of the nine Midwestern States affected, the State of Missouri was the hardest hit and State officials estimate that damages totaled $3 billion.

One specific example of the benefits of disaster mitigation in flash-flood situations comes to mind when I think of the City of Union, located about 45 minutes from St. Louis, where many of the residents suffered tremendous damage from a severe flash flood in May of 2000. After the flood, the City of Union applied to the State of Missouri Emergency Management Agency to seek help in a demolition and acquisition project. With the mitigation grant money, 17 properties were acquired in residential areas with substantial damage. These properties are now deed restricted for ''open space,'' which will prevent future development and the potential for flash flood related deaths in that area because many of the homes and people will no longer be in harm's way. This is an excellent example of the value of disaster and mitigation money invested by the Federal, State and local governments.

The disaster mitigation program has also been used to provide grant money to an individual, as opposed to a municipality. In some instances, these homeowners may be located in areas highly susceptible to tornadoes. Often

times, disaster mitigation grants have been issued to individual homeowners enabling them to build storm shelters underneath their homes, ultimately saving lives.

Over the years, the State of Missouri has worked with the Federal Emergency Management Agency (FEMA) to build structures that prevent flooding and other damage from occurring when natural disasters strike. Time and time again, FEMA has come to the rescue by establishing funding for disaster relief and mitigation activities within the State of Missouri and in other states across the country.

Having served as the Chairman of the Senate Appropriations Subcommittee on VA, HUD, and Independent Agencies, which until recently oversaw FEMA, I know first hand the value of the agency's disaster mitigation grant programs—the Hazards Mitigation Grant Program (HGMP), the Pre-Disaster Mitigation program (PDM), and the Flood Mitigation Assistance (FMA) program. Designed to manage future emergencies, these programs have been essential to countless communities, and without them, thousands of lives would be in jeopardy.

Last Congress, some very disturbing news was brought to my attention. According to a June 2004 legal memorandum issued by the Internal Revenue Service (IRS), FEMA mitigation grants may be subject to income taxation. While some may argue that this is merely the IRS's interpretation of the statute, it is clearly the position the IRS intends to take against American taxpayers whose only recourse will be to fight the agency in court.

Let me tell you what this means for the American taxpayer. In my example of Union, Missouri, it is the individuals whose homes have been purchased by the city who ultimately will be forced to pay taxes on the proceeds of the buyout. For the homeowner building a storm shelter with grant money, he or she might be taxed upon receipt of the grant.

I must say that I am absolutely stunned by this determination by the IRS!! How in the world could the IRS possibly think that Congress intended to tax these types of grants to prevent natural disasters, especially when we went out of our way to ensure that disaster-relief payments to individuals recovering from a hurricane, flood, tornado or other natural disaster are not subject to income taxes?

Today, I am offering a bill that will stop the IRS in its tracks and prevent the taxation of disaster mitigation grants. This language will ensure that any federal grants to construct or modify property to mitigate future disaster damage will not be deemed to be income by the IRS's tortured reasoning. This bill will ensure that any grants currently out there, especially in light of the current hurricanes that have happened, are not subject to tax. In addition, there should be no inference by this legislation that Congress intended such grants to be taxable prior to the effective date of this legislation.

Why is this important? Why am I out here today? Because the Missouri and Mississippi Rivers rise, because tornadoes will ravage through the state once again, and because flash flooding can decimate an entire community. The last thing Americans who are working to prevent such potential destruction need is for government-grant funding to be subject to tax. My bill ensures that such taxes do not see the light of day.

I thank the original cosponsors of this bill, Senators TALENT, INHOFE, VITTER, CONRAD, LANDRIEU, and NELSON, for their support, and I urge my other colleagues to join us. Finally, Mr. President, I ask unanimous consent that the bill and a letter from the Stafford Act Coalition be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME FOR CERTAIN DISASTER MITIGATION PAYMENTS.

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsection:

''(g) CERTAIN DISASTER MITIGATION PAYMENTS.—Gross income shall not include the value of any amount received directly or indirectly as payment or benefit by the owner of any property for hazard mitigation with respect to the property pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after December 31, 2004.

———

Hon. CHRISTOPHER ''KIT'' BOND,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOND: The undersigned organizations are writing to you as members of the Stafford Act Coalition to support your legislation to prevent taxation of federal assistance given to disaster victims for mitigation of future disasters. The Stafford Act Coalition represents a wide variety of groups interested in mitigation activities and has been the leading coalition working with Congress on issues related to disaster mitigation for over five years. This bill would make clear that federal disaster mitigation funds should not be taxable. Additionally, this legislation has implications for upcoming hazard mitigation deadlines associated with the disaster aid packages for recent hurricanes and also for tax returns for 2004 that taxpayers will begin filing in January 2005. We believe urgent action must be taken on this bill as soon as possible, especially given the dramatic disasters that the nation has faced in the last year.

The Internal Revenue Service issued a ruling on June 29, 2004 finding that disaster mitigation funds are taxable as income when used to reduce private property damage. Up until this ruling, disaster victims who took advantage of mitigation opportunities to prevent future losses were not taxed by the federal government. This recent ruling will create a disincentive that will discourage disaster victims from taking advantage of steps to reduce the costs of future disasters, protect property and prevent the loss of lives. With so many open presidentially declared disasters, the matter requires immediate reversal and clarification by Congress.

Your legislation would resolve the problems created by taxing mitigation assistance. According to the Department of the Treasury, some state and local governments are already reporting that disaster victims are declining assistance because the assistance will be taxable. As a result, the National Flood Insurance Fund and the Disaster Relief Fund will continue to be burdened by losses that may have been preventable with appropriate mitigation.

The active, on-going mitigation programs involved are all administered by the Federal Emergency Management Agency (FEMA), now part of the Department of Homeland Security (DHS). These programs include the Flood Mitigation Assistance Program (FMA), the Pre-Disaster Mitigation Program (PDM) and the Hazard Mitigation Grant Program (HMGP). The long term benefits of mitigation include avoidance or minimization of public expenditures for recovery. The federal government's disaster mitigation programs were established as well-conceived public policy to promote public safety, reduce loss of life and reduce the costs to the taxpayers of disaster response, especially repetitive disaster response. While individual property owners may end up less vulnerable to future damage, which the IRS determined to be equivalent to income, projects are by regulation or statute required to be cost-effective to the federal interest. Reducing damage to private property will reduce use of the casualty loss deduction which is a direct loss to the federal treasury. Mitigation lessens the economic impact of disasters by keeping businesses functioning and diminishing the effects on local economies and jobs.

Disaster mitigation programs assist citizens, businesses, and communities to take such steps as elevating buildings in floodplains, flood proofing, seismic reinforcement, acquisitions or relocations, wind protections for roofs and strengthening of window protections. It is contradictory to put in place such programs which not only protect individual properties, but surrounding properties and infrastructure and then tax the individual property owner on this ''benefit'' which extends well beyond that individual property owner. Generally, what is taxable income for federal purposes is also considered taxable income for state tax purposes, increasing the adverse impact of the IRS ruling.

If the federal government wishes its disaster mitigation programs to truly reduce future losses, it must act to ensure that mitigation funds are not taxed as income. The undersigned groups understand that any mention of claiming mitigation grant funds as income is certain to discourage property owners and local governments from considering the mitigation opportunities provided through the FMA, PDM and HMGP programs. We urge you to find the earliest possible opportunity to clarify the law. We hope to work with you to ensure the immediate passage of this legislation.

Sincerely,

The Stafford Act Coalition, American Planning Association, American Public Works Association, Association of State Flood Plain Managers, Council of State Governments, International Association of Emergency Managers, National Association of Development Organizations, National Association of Flood and Stormwater Agencies, National Emergency Management Association, National League of Cities, National

Rural Electric Cooperative Association, National Wildlife Federation.

Ms. LANDRIEU. Mr. President, in Louisiana, hurricanes and floods are as much a part of life as crawfish boils and Mardi Gras. Twenty percent of the coastal zone of my State lies below sea level, including 80 percent of our largest city New Orleans. Because of this our State has one of the finest and extensive levee systems in the world. Our communities have well developed flood plain management plans. We have built flood walls to protect neighborhoods from rising waters and homeowners in flood zones have built their houses on stilts.

Even with all of this preparation, flood damage does occur. It is estimated that Louisiana suffered more than $47 million in losses from flooding in 2003. To address this, 377,000 property owners participate in the National Flood Insurance Program—a program that is a real godsend to the people of my State. This program is fully financed by insurance premiums paid by property owners to cover damage to their homes and businesses as a result of flooding. The program also provides funding for property owners to floodproof their homes under the mitigation grant program. They can use these grants to put their homes on stilts, improve drainage, and obtain waterproofing materials.

All the people in my state ask for is a warning and an opportunity to protect themselves, their homes, and their loved ones from these disasters. Through the state-of-the-art systems developed by the National Weather Service, we can get a warning about a hurricane. We have sophisticated radar to track these storms as they move through the Gulf of Mexico, or up the East Coast. When a Category 4 is coming we can prepare and pray.

But they did not have any warning that the Federal government—more specifically the IRS—would begin to tax the money they received to prevent damages to their property from hurricanes and floods. Yet that has not stopped the IRS from making and implementing one of the most misguided and unfair decisions.

Let me be clear about what this has meant for people in my State. I heard from one man who told me that he was going to be liable for tax on an additional $218,000 in income for grant money used to do mitigation work on his home. He said he would have to work until he was 90 years old in order to pay off the tax bill.

What is worse, is that this misguided decision by the IRS will hit all natural disaster mitigation assistance covered by the Pre-Disaster Mitigation Program, the Hazard Mitigation Grant Program, and the National Flood Insurance Programs. Instead of protecting their properties, the IRS decision will force people to take risks that they will not be hit by a disaster.

I applaud my colleague from Missouri for introducing this legislation to fix this problem and I am proud to be an original cosponsor. This is not a regional, special-interest bill. Natural disasters can strike almost anywhere at any time. If your citizens have used a federal program to help make their property safer, the tax man will come for them too. I urge my colleagues to support this bill.

By Mr. KOHL (for himself and Ms. SNOWE):

S. 296. A bill to authorize appropriations for the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KOHL. Mr. President, I am introducing legislation today with Senator SNOWE to reauthorize funding for the Hollings Manufacturing Extension Partnership. This successful Commerce Department program, based in the National Institute of Standards and Technology, is a nationwide network of Hollings Manufacturing Extension Partnership Centers working with small- and medium-sized manufacturers in all 50 States. These local centers have played a critical role in helping our manufacturers turn out the most advanced products, using cutting edge technology and processes, to prevent these firms from being forced out of the global marketplace.

My State of Wisconsin is a great manufacturing State. Small- and medium-sized manufacturers and a few larger concerns make us the State economy most dependent on manufacturing—save Indiana. Thus, I am keenly aware of the devastating job losses experienced by American manufacturers. In Wisconsin alone, we lost more than 90,000 manufacturing jobs over the last four years.

While 2004 brought encouraging news in which we saw a net gain of 3.1 percent or 15,400 manufacturing jobs in my State, this pace of economic growth will never bring us back to where we were before.

That is why I am committed to doing all I can to help our manufacturers. And that is why I am such a strong supporter of the MEP program, one of the only Federal programs which has provided tangible assistance to the manufacturing sector to help companies stay in business and retain jobs. The MEP program served 18,422 manufacturers in fiscal year 2003 alone, and over the life of the program has assisted more than 184,000 firms across the Nation.

MEP's top areas of assistance are process improvement, quality inspection, business system and management, human resources, plant layout and manufacturing cells and product development. MEP streamlines operations, integrates new technologies, shortens production times and lowers costs, leading to improved efficiency by offering resources to manufacturers, including organized workshops and consulting projects. MEP removes the drag on profits and maximizes the potential of our manufacturing firms.

Wisconsin is the home to two MEP centers which have both had a significant impact on the productivity of companies throughout the State. Since 1996, Wisconsin MEP has helped over 1,300 Wisconsin manufacturers improve their productivity and profitability. Over that time WMEP customers have reported a positive impact of nearly $400 million in improvements attributable to the assistance provided by MEP. And, since 1994, the Northwest Wisconsin Manufacturing Outreach Center, targeting the more rural northwestern part of the State, has provided over 3,189 technical assistance activities to over 942 companies, created or retained 1,979 jobs, and achieved client-reported impacts of over $132 million.

One of the novel aspects of the MEP program is that it is a Federal-State-private partnership. Federal funding leverages State and private funding. Manufacturers pay reduced fees for the services and States match the Federal funding. In many cases, the Federal component is only one-third of the funding for the program.

Although the MEP program has broad bipartisan support, with 55 senators writing a letter in support of the program last year, we have had to struggle in recent years to ensure that MEP centers receive the funding they deserve. In the last two years, the Administration has proposed deep reductions in the program that would have forced MEP centers around the country to close. In fiscal year 2004, despite Senate support for full funding for the MEP Program, funding was reduced by 60 percent from $106 million to $39.6 million. As a result, 58 MEP centers closed and staff was reduced by 15 percent. Working with several other Senators, we succeeded in having amendments adopted on the fiscal year 2005 Defense authorization and appropriations bills to permit and direct the Commerce Department to reprogram unobligated funds to the MEP program in fiscal year 2004 to keep the MEP network intact. Fortunately, in the fiscal year 2005 Omnibus Appropriations bill, MEP received $109 million and was renamed the Hollings MEP program, in recognition of the strong support Senator HOLLINGS gave this program during his tenure in the Senate.

Next week the President will be sending us his proposed budget for fiscal year 2006. I am deeply concerned at reports that indicate that the Administration intends to propose yet again to cut this vital program. We have introduced this legislation today as a sign that there continues to be bipartisan support for the Manufacturing Extension Partnership. I hope that these reports were incorrect and that the Administration recognizes that we cannot abandon our small- and medium-sized manufacturers. They are the key to economic growth, good paying jobs, and a healthy balance of trade.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.

(a) AMOUNTS FOR FISCAL YEARS 2005 THROUGH 2008.—There are authorized to be appropriated to the Secretary of Commerce for the Hollings Manufacturing Extension Partnership Program of the National Institute of Standards and Technology—

(1) $110,000,000 for fiscal year 2005;

(2) $115,000,000 for fiscal year 2006;

(3) $120,000,000 for fiscal year 2007; and

(4) $125,000,000 for fiscal year 2008.

(b) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM DEFINED.—In this section, the term ''Hollings Manufacturing Extension Partnership Program'' means the program of Hollings Manufacturing Extension Partnership carried out by the National Institute of Standards and Technology under section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278l), as provided in part 292 of title 15, Code of Federal Regulations.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 36—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. SPECTER submitted the following resolution; from the Committee on the Judiciary; which was referred to the Committee on Rules and Administration:

S. RES. 36

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2005, through September 30, 2005; October 1, 2005, through September 30, 2006; and October 1, 2006, through February 28, 2007, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period of March 1, 2005, through September 30, 2005, under this ''resolution shall not exceed $4,946,007, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (Under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(B) for the period October 1, 2005, through September 30, 2006, expenses of the committee under this resolution shall not exceed $8,686,896, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1936).

(C) For the period October 1, 2006, through February 28, 2007, expenses of the committee under this resolution shall not exceed $3,698,827, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 2020) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2005, through September 30, 2005, October 1, 2005 through September 30, 2006; and October 1, 2006 through February 28, 2007, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 37—DESIGNATING THE WEEK OF FEBRUARY 7 THROUGH FEBRUARY 11, 2005, AS ''NATIONAL SCHOOL COUNSELING WEEK''

Mrs. MURRAY (for herself, Mr. DORGAN, Mr. JOHNSON, Mr. DODD, and Mr. FEINGOLD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 37

Whereas the American School Counselor Association has declared the week of February 7 through February 11, 2005, as ''National School Counseling Week'';

Whereas the Senate has recognized the importance of school counseling through the inclusion of elementary and secondary school counseling programs in the reauthorization of the Elementary and Secondary Education Act of 1965;

Whereas school counselors have long advocated that the education system of the United States must leave no child behind and must provide opportunities for every student;

Whereas personal and social growth results in increased academic achievement;

Whereas school counselors help develop well-rounded students by guiding them through their academic, personal, social, and career development;

Whereas school counselors were instrumental in helping students, teachers, and parents deal with the trauma of terrorism inflicted on the United States on September 11, 2001, and the aftermath of that trauma;

Whereas students face myriad challenges every day, including peer pressure, depression, and school violence;

Whereas school counselors are usually the only professionals in a school building that are trained in both education and mental health;

Whereas the roles and responsibilities of school counselors are often misunderstood, and the school counselor position is often among the first to be eliminated in order to meet budgetary constraints;

Whereas the national average ratio of students to school counselors of 485-to-1 is more than double the 250-to-1 ratio recommended by the American School Counselor Association, the American Counseling Association, the American Medical Association, the American Psychological Association, and other organizations; and

Whereas the celebration of ''National School Counseling Week'' would increase awareness of the important and necessary role school counselors play in the lives of students in the United States: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NATIONAL SCHOOL COUNSELING WEEK.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the President should designate the week of February 7 through February 11, 2005, as ''National School Counseling Week''.

(b) PROCLAMATION.—The Senate requests the President to issue a proclamation—

(1) designating the week of February 7 through February 11, 2005, as ''National School Counseling Week''; and

(2) calling on the people of the United States and interested groups to observe the week with appropriate ceremonies and activities that promote awareness of the role school counselors perform in the school and the community at large to prepare students for fulfilling lives as contributing members of society.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, February 3, 2005. The purpose of this hearing will be to examine the effects of Bovine Spongiform Encephalopathy (BSE) on U.S. imports and exports of cattle and beef.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 3, 2005, at 10 a.m., in open session to receive testimony on U.S. military operations and stabilization activities in Iraq and Afghanistan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, February 3, at 10 a.m., to receive testimony regarding forecasting the future: U.S. energy challenges in the global context.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, February 3, 2005 at 9:30 a.m., in the Senate Dirksen Office Building, Room 226.

Agenda:

Legislation: S. 5, Class Action Fairness Act of 2005; GRASSLEY, FEINSTEIN, HATCH, KOHL, KYL, SCHUMER, SESSIONS.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, February 3, 2005, for a full committee hearing on Benefits for Survivors.

The hearing will take place in Room 418 of the Russell Senate Office Building at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Thursday, February 3, 2005, from 2 p.m.–5 p.m. in Dirksen 628 for the purpose of conducting a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE WEEK IN THE SENATE

Mr. FRIST. Mr. President, after the first complete week that we have been in session, looking back over the last several days, we have had a productive week. Today, we confirmed Judge Alberto Gonzales as U.S. Attorney General. I talked to him a few moments ago. As we heard from so many, Judge Gonzales is an outstanding choice to lead the Justice Department. In that phone call, I had the opportunity to congratulate him and to express my optimistic anticipation of working with him in what I know will be a very productive and important several years.

From very humble beginnings in Humble, TX, he has climbed to those highest peaks, in Government and law. As friend and fellow Texan Henry Cisneros attests, Judge Gonzales has a personal story that allows him to understand the realities so many Americans face in their everyday lives.

A former Texas Supreme Court Justice, over the last 4 years as White House Counsel to the President, Judge Gonzales is eminently qualified to be our Nation's top law enforcement officer.

Candid and thoughtful and always a straight shooter, for him the law is the law—exactly what is needed for this high post. I am confident he will serve with distinction and with honor. I applaud his confirmation.

In addition to confirming Judge Gonzales, we passed the Family Entertainment and Copyright Act of 2005 this week. It didn't get a lot of fanfare, but this new legislation is another very important tool to help families protect their children from violent and explicit movie content. We have the V-chip, and we have television ratings. Now parents will have even more ways to stop inappropriate images from coming into and flooding their homes.

As Senator HATCH, the lead sponsor of this bill, says, parents, not Hollywood, should decide what kids see today.

The bill also provides a uniform Federal law to help crack down on international piracy, which is a huge problem in a creative industry.

I mention that, in part, because I am from a part of the country in Tennessee that has a rich music tradition, extending from the Grand Ole Opry to the Country Music Hall of Fame. From Elvis Presley to Johnny Cash, throughout Tennessee, artists and musicians have shaped popular music the world over.

Their contributions deserve to be celebrated. But they also deserve to be protected. That is what this legislation does. The legislation will help stop the Internet theft that threatens this creative industry and, indeed, the creative arts more broadly.

I thank Senator ORRIN HATCH, Senator PATRICK LEAHY, Senator JOHN CORNYN, who is occupying the Chair, and Senator DIANNE FEINSTEIN for their hard work on this important issue.

NATIONAL WEAR RED DAY

Mr. FRIST. Mr. President, in a final note, tomorrow, February 4—I mention this because we will not be in session tomorrow—is called National Wear Red Day. So I put my red tie on a little bit earlier, and I will be wearing it tomorrow because tomorrow all across the country men and women will be wearing this red color of dress, or pant suit, or tie, or maybe jackets, all to raise awareness for heart disease in women.

A lot of people do not realize that this year more women will die of heart disease than men. People think heart disease, unfortunately, is a men's disease. More women will die of heart disease than men. It is true this year, last year, the year before that—all the way back to 1984. It is a fact.

Last week, I had the pleasure of joining WomenHeart, which is the Nation's only patient advocacy organization for women with heart disease. I shared my experiences with them as a heart surgeon, as a heart and lung transplant surgeon, and the importance of awareness of early detection and prevention and treatment.

It is not a ''man's disease'' and it is not an ''elderly disease.'' It is a disease that affects all people. There are over 8 million women nationwide who have heart disease right this very second. That is more than the number of women—if you added them together—in New York, Los Angeles, and Chicago.

Women who experience heart problems—it is interesting—die at a higher rate after their first heart attack than men. So you have a man and woman, they both have a heart attack, but the woman is more likely to die of a heart attack. We don't know exactly why that is the case, which is one of the things we need to continue to investigate.

In my own State of Tennessee, the death rate for women with heart disease is 70 percent higher than men.

These are the sorts of observations of phenomena that need to be even more aggressively investigated. And part of wearing red tomorrow is this awareness—the necessity of research, the focus on prevention and diagnosis of heart disease in women.

We have made huge strides in treating heart disease in women.

In January, the American Cancer Society released its annual statistical report, citing that mortality rates for heart disease are dropping dramatically. I am encouraged by this news. But we can't be complacent. Heart disease is still the second leading cause of death in the United States.

While we can't control our genes—which is a large predeterminant—we can eat a healthy diet, get active, stay in shape, absolutely stop smoking, and reduce stress in our daily lives.

Those are all the controllable variables which we know can have a dramatic impact on improving quality of life, if you have heart disease, or avoiding heart disease altogether. If we live by these very simple principles, we can live a healthier life and have a more optimistic outlook on life.

In celebration of National Wear Red Day, in the spirit of the Heart Truth Campaign, I call upon each and every American to take action—take charge of your health and this Friday wear red.

I actually have a little pin on as well that has a red dress. You will see a lot of women wearing red dresses tomorrow.

By encouraging awareness, you will help women across the country—mothers, daughters, sisters, and friends—to learn the facts about this deadly disease.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Democratic leader, after consultation with the members of the Committee on Health, Education, Labor, and Pensions, and the Committee on Aging, pursuant to Public Law 100–175, as amended by Public Laws 102–375, 103–171, and 106–501, appoints the following individual as a member of the Policy Committee to the White House Conference on Aging: the Honorable HARRY REID of Nevada.

Mr. REID. Every 10 years, the President convenes a White House Conference on Aging—WHCoA. It conducts extensive work to understand and develop policy recommendations on issues of critical importance to our seniors.

The WHCoA is made up of a Policy Committee recommended by Congress and the President from the public and private sector. The work of the committee culminates in the October WHCoA which will be attended by 12,000 delegates and other officials. The theme of this year's conference, ''The Booming Dynamics of Aging: From Awareness to Action'' will deal with a broad range of issues from workplace opportunities for older workers to health care and access to affordable prescription drugs.

Following the October meeting, WHCoA formulates a series of policy recommendations for Congress and the President.

Senator Daschle was gracious enough to place me on the policy committee because of my strong interest in the topics it would consider. Many of those issues are of critical importance to Nevadans. In particular, I assumed a position on the Health and Long Living Subcommittee because its work will focus on access to care and affordable prescription drugs, disease prevention and quality of care.

Today, I have decided to pass the torch of this important post to my friend and colleague, Thomas E. Gallagher. These issues are near to his heart. Tom will be an important voice on the WHCoA for Nevadans and all Americans.

Tom's extensive private sector experience will be a great asset to the conference as it works to formulate recommendations to Congress. Through his work as chief executive officer—CEO—chief administrative officer and general counsel of several Fortune 500 Companies, Tom became intimately familiar with the health care challenges facing the business community.

For example, as President and CEO of Park Place Entertainment—now Caesars Entertainment—Mr. Gallagher reached a historic contract with Nevada's Culinary Union resulting in fully paid health care and free prescription drugs for employees, as well as retiree benefits for seniors.

Prior to his corporate management work, Tom was a partner in Gibson, Dunn & Crutcher, specializing in corporate finance, mergers and acquisitions. He graduated magna cum laude from the College of Holy Cross in Worchester, MA in 1966. He graduated from Harvard Law School with honors in 1969 and was the Editor-in-Chief of the Harvard Journal on Legislation.

I plan to work closely with Tom as he works on the WHCoA on meetings to help ensure that the issues and view of Nevadans are explored in the listening sessions, solution meetings and other WHCoA events.

ORDERS FOR MONDAY, FEBRUARY 7, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 5, the class action bill, on Monday, February 7, at a time to be determined by the majority leader after consultation with the Democratic leader; that Monday's consideration be limited to debate only; that during the consideration of the bill amendments be limited to those which are related to the subject matter of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, February 7.

I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate begin a period of morning business with Senators permitted to speak for up to 10 minutes each; provided that at 3 p.m. the Senate proceed to the consideration of S. 5, the class action bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, following morning business, the Senate will begin consideration of the class action bill. The managers of the bill will be here on Monday. I encourage Members to make themselves available for opening statements. The previous order provides for debate only on the class action bill during Monday's session, and I expect we will start the amendment process early on Tuesday.

I would also announce to my colleagues that we are working on a resolution relating to the recent elections in Iraq. It is our intent to have a vote on that resolution on Monday evening at approximately 5:30 p.m.

Again, we do not have that locked in, but we will be working in good faith on the final language and agreement for that 5:30 vote.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 7, 2005, AT 2 P.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:07 p.m., adjourned until Monday, February 7, 2005, at 2 p.m.

CONFIRMATION

Executive nomination confirmed by the Senate: Thursday, February 3, 2005:

DEPARTMENT OF JUSTICE

To be attorney general

ALBERTO R. GONZALES, OF TEXAS